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JOHN JAY COLLEGE OF CRIMINAL JUSTICE

United States District Court

SOUTHERN DISTRICT OF NEW YORK

Criminal No. C-128-402

UNITED STATES OF AMERICA,

against

ALGER HISS,

Defendant.

NOTICE OF HEARING OF MOTION FOR NEW TRIAL
MOTION
AFFIDAVITS

BEER, RICHARDS, LANE & HALLER,
Attorneys for Defendant,
70 Pine Street,
New York 5, N. Y.

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United States District Court

SOUTHERN DISTRICT OF NEW YORK

United States of America, against Alger Hiss, Defendant.	Criminal No. C-128-402

NOTICE OF HEARING OF MOTION FOR A NEW TRIAL BASED ON THE GROUND OF NEWLY DISCOVERED EVIDENCE

Sir:

Please take notice that the within motion under Rule 33 of the Federal Rules of Criminal Procedure, for a new trial of the defendant herein, Alger Hiss, based on the ground of newly discovered evidence, will be brought on for hearing before this Court at Room 318 in the United States Courthouse, Foley Square, Borough of Manhattan, City of New York, on the 4th day of February, 1952, at 10:30 o'clock in the forenoon of that day or as soon thereafter as counsel may be heard.

Dated: January 24, 1952.

Beer, Richards, Lane & Haller,
Attorneys for Defendant,
70 Pine Street,
New York 5, New York.

To:

The Honorable Myles J. Lane,
United States Attorney,
Southern District of New York.

United States District Court

SOUTHERN DISTRICT OF NEW YORK

United States of America, against Alger Hiss, Defendant.	Criminal No. C-128-402

MOTION FOR A NEW TRIAL BASED ON THE GROUND OF NEWLY DISCOVERED EVIDENCE

Alger Hiss, the defendant herein, pursuant to Rule 33 of the Federal Rules of Criminal Procedure moves the Court for an order granting a new trial on the ground of newly discovered evidence, and for such other and further relief as the Court may deem just and proper.

Dated: January 24, 1952.

Beer, Richards, Lane & Haller,

By: Chester T. Lane,
A member of said firm,

Attorneys for Defendant,
70 Pine Street,
New York 5, New York.

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AFFIDAVIT OF CHESTER T. LANE IN SUPPORT OF MOTION

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA, against ALGER HISS, Defendant.	Criminal No. C-128-402

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

CHESTER T. LANE, being duly sworn, deposes and says:

I am an attorney at law, a member of the firm of Beer, Richards, Lane & Haller, attorneys for Alger Hiss, the defendant herein, and am in charge of this case for my firm. I make this affidavit in support of the defendant's motion for a new trial on the ground of newly discovered evidence under Rule 33 of the Federal Rules of Criminal Procedure.

The indictment contains two counts, each for the crime of perjury allegedly committed by defendant on December 15, 1948. The first count alleges that on or about December 15, 1948, the Grand Jurors duly impanelled and sworn in the United States District Court for the Southern District of New York were conducting an investigation pertaining to possible violations of espionage laws of the United States and other federal criminal statutes, and that it was material to that investigation to ascertain whether United States statutes had been violated by the unlawful abstraction or removal of secret, confidential or restricted documents, writings, sketches, notes or other papers by persons employed by the United States Government, or by the furnishing, delivery or transmittal of any such documents, writings, sketches, notes or other papers to any unauthorized persons. The first count further alleges that the defendant, a witness before said Grand Jury, testified under oath that he had not turned over to one Whittaker Chambers any documents of the State Department or of any other government organization, or copies of any such documents. The first count charges that the said testimony of defendant was false in that the defendant "being then and there employed in the Department of State, in or about the months of February and March, 1938, furnished, delivered and transmitted to one Jay David Whittaker Chambers, who was not then and there a person authorized to receive the same, copies of numerous secret, confidential and restricted documents, writings, notes and other papers the originals of which had theretofore been removed and abstracted from the possession and custody of the Department of State."

The second count, after realleging the allegations of the first count pertaining to the Grand Jury investigation, alleges that defendant further testified as a witness before the Grand Jury that he thought he could say definitely that he had not seen Chambers after January 1, 1937. It charges that that testimony was untrue in that "the defendant

did in fact see and converse with the said Mr. Chambers in or about the months of February and March, 1938."

Defendant pleaded not guilty to each count of the indictment on December 16, 1948. The case was first tried before the Honorable Samuel H. Kaufman and a jury from May 31, 1949, until July 8, 1949. After deliberating over a period of 28 hours the jury reported that it could not agree, and was discharged. The case was again tried before the Honorable Henry W. Goddard and a jury from November 17, 1949, until January 21, 1950. After deliberating over a period exceeding 23 hours, the jury returned a verdict of guilty on each count of the indictment. Defendant was sentenced on January 25, 1950, to five years on each count of the indictment, the sentences to run concurrently.

The defendant's appeal was argued on October 13, 1950. The judgment was affirmed on December 7, 1950. A petition for rehearing was filed on December 19, 1950, and denied on January 3, 1951. A petition for a writ of certiorari was filed in the Supreme Court of the United States on January 27, 1951, and denied by that Court on March 12, 1951. The defendant surrendered to the United States Marshal on March 22, 1951, and was committed to the Federal Penitentiary at Lewisburg, Pennsylvania, where he is still confined.

This case had its origin in a charge of membership in an underground group in the Communist Party made against Alger Hiss by Whittaker Chambers before the Committee on Un-American Activities of the House of Representatives on August 3, 1948.* Alger Hiss denied these charges under oath before the House Committee, and challenged Chambers to repeat his charges where they would not be privileged against suit for libel. Chambers having so repeated these charges, Hiss on September 27, 1948, brought suit for libel against him in the United States District Court for the District of Maryland; and on November 4, 1948, commenced in that suit a pre-trial examination of Chambers, in the course of which Mrs. Chambers was also examined.

In his pre-trial examination in the Maryland action, Chambers was asked by Alger Hiss's attorneys to produce any papers that he might have received from Alger Hiss. On November 17, after an interval of some days, Chambers produced four pencil memoranda in Hiss's handwriting (Government's Baltimore Exhibits 1-4) and 43 typewritten documents, all but one of which it was conceded for the purposes of the second trial were typed on a Woodstock typewriter once owned by the Hisses (Government's Baltimore Exhibits 5-47). Each of these pencil memoranda and typewritten documents was shown at the trial to be either a copy of or excerpt from, or a summary or paraphrase of all or part of, one or more official State Department documents (Government's State Exhibits 1-47).

Upon the production of Government's Baltimore Exhibits 1-47, Hiss's attorneys, on his instructions, immediately turned them over to the Department of Justice.

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* The designation "H. Hearings, ..." is used below for references to the published testimony before the Committee (Hearings Regarding Communist Espionage in the United States Government, Committee on Un-American Activities, House of Representatives, Eightieth Congress, Second Session).

On December 2, 1948, Chambers delivered to agents of the House Committee two strips of developed microfilm which he had hidden in a hollowed-out pumpkin (Government's Exhibits 11, 12) consisting of photographs of State Department documents (Government's State Exhibits 48 and 50-55). Enlargements of these photographs are marked Government's Baltimore Exhibits 48 and 50-55.

Chambers's production of Government's Baltimore Exhibits 1-47 and Government's Exhibits 11 and 12 resulted in further testimony by him before the House Committee, the transcript of which has never been published by the Committee (except for a brief excerpt read into the record in the course of the testimony of Henry Julian Wadleigh before the Committee). It further resulted in Chambers being recalled, and Alger Hiss being called, before the Grand Jury of the Southern District of New York. On the last day of the Grand Jury's term, December 15, 1948, Alger Hiss gave the testimony on which the indictment is founded.

The Government's case was based so largely on the testimony of Whittaker Chambers that condensed recital of his story as told on the stand is essential to an understanding of the importance of the new evidence presented by this motion. Copy of the printed record on the appeal is on file in the office of the Clerk of this Court, and references to the testimony at the second trial are keyed to the page numbers of the printed record. The following is the substance of Chambers's story at the second trial:

> In 1934 Chambers was in Washington, D. C., as a member of the Communist "underground", and in that capacity first met Alger Hiss at "a restaurant in downtown Washington" (which he could not identify). The introduction was effected by one Harold Ware ("the organizer of an underground apparatus in Washington") and one J. Peters ("the head of the whole underground of the American Communist Party") (R. 233-4). At the meeting Peters stated in substance that Alger Hiss, whom he introduced as a Communist, "was to be disconnected from the apparatus which Ware was then organizer of" and "was to become a member of a parallel organization" under Chambers (R. 235). This meeting marked the beginning of a close association between Chambers and Alger Hiss, both on a social level and as active Communist espionage agents.
>
> At the time of the alleged meeting Hiss was counsel to the Senate Committee investigating the munitions industry (Nye Committee), and his first assignment, in the new "organization", was to procure through the Committee, for espionage purposes, original State Department documents that "dealt with some phases of munitions traffic, as nearly as I can remember" (R. 239). In 1936 Alger Hiss entered the Department of State, and thereafter, in January, 1937, Chambers arranged a clandestine meeting between him and a certain Colonel Bykov, "an underground worker in a Soviet apparatus" and Chambers's own superior in the Communist underground, at which Bykov stated in substance that Russia was endangered by the Fascist powers, and that Hiss "could greatly help if he would procure documents from the State Department". Hiss agreed, and soon afterwards began to bring home State Department documents at intervals of a week or ten days which

Chambers would pick up from him at his home and take to Baltimore for photographing, returning the originals the same night (R. 253-8). This method, however, was unsatisfactory in that it resulted in the procurement of "just the documents of a single day" (R. 258); and in the middle of 1937, Chambers instructed Hiss "to have the papers brought out every night, or approximately every night and some of them typed as nearly verbatim as possible and some of them paraphrased" (R. 258). The typing was to be done by Mrs. Hiss. This practice was accordingly initiated, and in addition Alger Hiss would bring home and turn over to Chambers originals of the State Department documents coming to his desk on the particular days of Chambers's visits, and would also turn over handwritten notes "about documents which had passed under his eyes quickly and which, for some other reason he was unable to bring out * * *" (R. 258-9). After photographing, the originals would be returned by Chambers, and the typed copies or paraphrases and handwritten notes would be burned. The photographs would be turned over to Bykov (R. 259).

On April 15, 1938, Chambers broke with the Communist Party, and discontinued his espionage activities. However, for some reason which he has never made clear, he retained some of the papers and exposed film which had accumulated in his hands, and in May or June, 1938, confided them in an envelope to his wife's nephew, Nathan Levine, for safekeeping (R. 260, 291). Levine testified that he kept the envelope in an old dumbwaiter shaft from some time in 1938 until November, 1948, when he returned it to Chambers (R. 727-9). Levine never saw the contents of the envelope (R. 727).

In addition to these "official" contacts claimed by Chambers during the period from 1934 to 1938, Chambers testified to frequent and intimate social contacts between the Hiss and Chambers families. These involved stays in each other's homes, visits on ceremonial occasions, and out of town trips together.

As I have said, the Government's case rested largely on Chambers's testimony. As to the first count, he was the sole witness who testified to the alleged falsity of Hiss's statements; and to the extent that meetings involved in the delivery of documents were relied on to establish the second count, he was the sole such witness under that count also. Since this was a perjury case, the testimony of Chambers had to be substantiated by corroborative evidence under the rule of *Weiler* v. *United States,* 323 U. S. 606. The corroborative evidence introduced by the Government to support the first count of the indictment consisted essentially of the handwritten and typewritten documents and developed microfilm produced by Chambers as above described. State Department officials produced and authenticated the original official State Department documents from which the copies, paraphrases, and photographs derived. The handwritten documents (Government's Baltimore Exhibits 1-4) were conceded to be in Alger Hiss's handwriting (R. 1073); and a Government expert, Ramos C. Feehan, testified without contradiction by the defense that the typewritten documents, with the exception of Government's Baltimore Exhibit 10, were typed on the same machine as had been used to type certain other documents in evidence which had concededly been typed on a Woodstock typewriter owned by the Hisses in the early 1930's (R. 1074). In addition, the

Government offered evidence that Alger Hiss had had access (although not exclusive access) to most of the State Department documents which had been copied, abstracted or photographed.

To the extent that the meetings involved in the alleged delivery of documents were used to support Count Two, the corroborative evidence tendered by the Government was the same under that count as under Count One. However, the Government also attempted to corroborate Chambers's testimony as to four other alleged meetings after January 1, 1937: (1) a meeting in January, 1937, at which Chambers delivered a rug to Alger Hiss "behind a restaurant on the Washington-Baltimore Road", as "a gift from the Soviet people in recognition of the work of the American Communists" (R. 255); (2) an automobile trip made in August, 1937, by Chambers with Alger and Priscilla Hiss to Peterboro, New Hampshire (R. 278-9); (3) a meeting in November, 1937, at which Alger Hiss lent Chambers $400 for the purchase of a car (R. 264); and (4) a meeting on "loosely a Christmas occasion" in December, 1937, at the Chambers's home in Baltimore (R. 262). As to the last of these alleged meetings, the corroboration was attempted through Chambers's wife, who testified to a party on the Hisses' wedding anniversary, December 11, 1937 (R. 968). As to the three other meetings, the proffered proof was wholly circumstantial, with no probative force as corroboration.

Conspicuously, the only person other than Mr. and Mrs. Chambers produced by the Government to testify to any disputed meeting between Alger Hiss and Chambers at any time was an alleged maid of the Chamberses, one Edith Murray, who claimed to have worked for the Chamberses under the assumed name "Cantwell" in Baltimore at 903 St. Paul Street from the fall of 1934 to the spring of 1935, and at 1617 Eutaw Place from the fall of 1935 to the spring of 1936, and to have seen Priscilla Hiss four times, and Alger Hiss once, in the Chambers home at 1617 Eutaw Place in the latter winter. Mrs. Murray's first appearance as a witness was at the second trial, and although she was present in the courthouse on the opening day of the trial she was not produced as a witness until the last day of the two-months' trial, at practically the close of the Government's case in rebuttal (R. 3032-3).

In defense, Hiss steadfastly asserted that his statements before the Grand Jury had been truthful. He denied any Communist membership or affiliation of any kind, denied having given Chambers any State Department documents, and denied any close association with Chambers or his family. He testified that in December, 1934, or January, 1935, when he was counsel to the Nye Committee, Chambers came to see him, introducing himself as George Crosley, a free-lance writer doing a series of articles on the munitions investigation (R. 1841, 1843-4). At one of the several subsequent meetings at lunch, Chambers told Hiss that he was planning to come to Washington for a few months to complete his articles on the munitions investigation, and was looking for a place to live with his wife and child. This conversation resulted in Hiss's subletting his apartment at 2831 28th Street, Washington, to Chambers—the Hisses having moved to a house at 2905 P Street and having the balance of the apartment lease on their hands (R. 1846-9, 1851-2). Before moving into the 28th Street apartment the Chamberses spent a few days at the Hisses' P Street

house, Chambers having told Hiss that he and his wife and child had arrived but that the van bringing their effects had been delayed (R. 1852-3). Hiss and Chambers met a few times thereafter, the last meeting being in the spring of 1936, when Hiss refused Chambers's request for the latest of a number of small loans (R. 1869-70). Both Alger and Priscilla Hiss denied any visits by either of them to any of the Chambers homes, any visits by Mr. and Mrs. Chambers to the Hisses' 30th Street or Volta Place homes, and any trips with Chambers except for one occasion when Hiss gave Chambers a ride from Washington to New York.

A large number of persons of unquestionable integrity testified to Hiss's good character, and Hiss introduced substantial evidence that his beliefs and attitudes, in the State Department and elsewhere, had consistently shown his devotion to the interests of the United States.

In addition, the defense—though faced with the peculiarly difficult problem of proving a negative after the lapse of many years—introduced independent evidence specifically controverting many of the factual statements made by Chambers in his testimony. As an illustration: On the alleged Peterboro trip Chambers and the Hisses were supposed to have stayed in an inn known as Bleak House. The operator of the Inn, Mrs. Lucy Elliott Davis, testified that she had never seen the Hisses before the first trial and had never seen Chambers. She kept a guest book in which it was her practice to have all guests register; the guest book, produced, contained no entries which could represent Chambers and the Hisses under their own or any other names (R. 1670-9). Chambers himself was unable to locate the tourist home where he claimed to have stayed with the Hisses on their way to Peterboro (R. 433-5, 438).

The defense also introduced evidence as to the probable sources of such accurate information as Chambers and Mrs. Chambers did seem to have as to facts concerning Alger Hiss, his family, and their residences, beyond such facts as could readily have been learned during their conceded brief association. For example, it was shown that meetings were arranged by the FBI in February, 1949, between Chambers and the Hisses' two former maids, Claudie Catlett and Martha Pope, at which Chambers questioned the maids about the interior of the Hisses' houses (R. 462-72, 672-3, 1545-50, 1570-3). Likewise, the FBI before the first trial asked Olivia (Plum) Fountain Tesone, a friend of the Hisses and an architect, "a good many detail questions about the various houses the Hisses had occupied" (R. 1785-6), and secured from Teunis F. Collier, a contractor-builder, floor plans of the 30th Street and Volta Place houses as they were when the Hisses occupied them (R. 1734-42). Where such sources of information were not available to Chambers and his wife, defense witnesses showed that they had made demonstrable mistakes (see, *e.g.,* R. 966, 1525, 1528, 1747, regarding the color of the 30th Street house at the time the Hisses lived there).

The proof discrediting the alleged corrobative effect of the Baltimore documents need not be stated at length here. As to the handwritten notes, these were shown to have covered matters on which it would have been appropriate for Alger Hiss to make notes as an aid in reporting to his superior, and contained abbreviations obviously suited only to his personal use. As to the typewritten documents, typed apparently on a machine which had been owned by the Hisses, it was shown by the Government's own proof that Chambers had other

State Department sources for the State Department originals, of whom Henry Julian Wadleigh was one but by no means the only one (R. 1254), and that the typewriter was out of the Hisses' possession by some time in April, 1938, at the very latest (the latest document copied was dated April 1, 1938). And as for Chambers's statement that all the documents (except possibly Government's Baltimore Exhibit 10) had been given to him by Alger Hiss, routing marks and other indicia showed that a number of them were most *unlikely* to have been available to Alger Hiss and most *likely* to have been available to others who might have been Chambers's sources.

Summary of Grounds of This Motion

1. Apart from the testimony of Chambers and his wife, the Government's case rested in principal part on the Baltimore Documents, which a Government expert testified had been typed on a Woodstock typewriter owned by the Hisses. Newly discovered evidence shows, and we offer to demonstrate on this motion, that a technique of forgery by typewriter exists which was not known about at the time of the trial, and which if it could have been demonstrated at the trial would have fatally undermined the essential identifying testimony of the Government's expert.

2. The typewriter supposed to have typed the Baltimore Documents was put in evidence at the trial as a physical exhibit, and was used by the Government before the jury as a dramatic visual illustration of Hiss's guilt. Newly discovered evidence points strongly to the conclusion that the typewriter found and produced by the defense in the belief that it was the original Hiss machine was in fact a carefully constructed substitute, which could only have been fabricated for the deliberate purpose of falsely incriminating Alger Hiss.

3. Though the Chamberses testified to long and close social relations with the Hisses, in public as well as in private, Edith Murray, a supposed former maid of the Chamberses, was the only person ever produced by the Government to testify to any such relations. She was first produced on the last day of the second trial, thus enhancing her dramatic effect on the jury and depriving the defense of any opportunity to prepare for cross-examination or to test her credibility. Newly discovered evidence demonstrates that her identification of the Hisses as visitors at the Chamberses' home cannot have any foundation in fact.

4. The core of the Government's case lay in the Baltimore Documents and in Chambers's story that they were documents supplied to him by Hiss for espionage purposes. To support Chambers's story it is essential that his alleged conspiracy with Hiss should have continued until a few days after April 1, 1938, the date of the last of the Baltimore Documents. Newly discovered evidence establishes that Chambers quit his Communist Party activities at the latest several weeks before April 1, 1938, and thus establishes that Chambers's entire testimony regarding the Baltimore Documents is a fabrication.

5. Chambers's story depended upon implicating Hiss in a Communist Party group or cell containing several other designated members. Up to the end of the second trial no other alleged member of the group had been willing to testify publicly as to whether the group had in fact ever existed and, if so, what its membership was. Newly discovered evidence, from one prominent alleged member of the group, in the form of sworn testimony before a Congressional Committee, establishes that while such a group did exist, Alger Hiss was not a member of it.

I

The Typewriter

Following the conviction of Alger Hiss by the jury on January 21, 1950, on what his counsel were satisfied was in essential part perjured and fabricated evidence, the whole case was reexamined with a view to trying to find out how Chambers had been able to produce documents typed, or appearing to be typed, on a typewriter owned by Alger Hiss and his wife. One possibility was that Chambers had simply borrowed the typewriter, either when it was in the possession of the Hisses or after it had been given to the sons of their colored maid. This possibility had been fully explored at the trial—without apparently convincing the jury; and it seemed unlikely that any new evidence could be found to prove that Chambers had conducted what was in all probability a clandestine operation known only to himself.

The alternative possibility was that instead of using the Hiss typewriter, Chambers had in some way forged the Baltimore Documents so as to make them appear to have been written on the Hiss typewriter. This possibility had not theretofore been explored because of a general belief that experts in the examination of questioned typewritten documents were able to detect to a scientific certainty whether two given documents, or sets of documents, were typed on the same or on different machines. The scientific method by which this is customarily done had been demonstrated by the Government's witness Feehan in his testimony in this case, and advice from experts employed by the defense had furnished no reason to question the soundness of Feehan's method or the correctness of his results.

But after extended reflection it occurred to me that the method employed by Feehan and other experts rested on an assumption that if two typed documents contained a certain number of *similar* deviations from the norm—a repetition of similar peculiarities in a certain number of the typed characters employed in the two documents—the laws of chance would preclude the possibility that two different machines had been used. This assumption, while doubtless sound enough in the ordinary type of case, appeared to neglect altogether the possibility—if it was one—that a typewriter might be deliberately created, or adapted, so as to duplicate some, if not all, of the peculiar characteristics of another. I decided to explore this possibility—to see whether a typewriter could be created which would duplicate a sufficient number of the peculiar characteristics of another to meet the tests which as applied by Mr. Feehan had satisfied him that the same machine had been used in this case for the two sets of documents. If this—which so far as I know had never before been generally supposed possible—*could* be done, the demonstration of it would, it seemed to me, neutralize the "scientific" evidence which had been necessary to

corroborate Chambers's testimony and which hence had been vital to the Government's case.

Accordingly, I consulted one Martin K. Tytell, a noted typewriter engineer in New York City, and explained my problem to him. I asked whether, without ever seeing the typewriter in evidence in the Hiss case—Woodstock #230,099—but working simply from sample documents typed on that machine, he could make another typewriter which would produce typed documents so similar in peculiar typing characteristics to the samples as to meet the tests of identity applied by Mr. Feehan. He said that not only could he do that, but he believed that he could make a machine the product of which would be so exactly similar in *all* respects—not merely in the ten or so characters analyzed by Mr. Feehan—that no expert could distinguish documents typed on the two machines, even if put on his guard by warning in advance that a deliberate effort had been made to construct a duplicate machine. Of course, he said, an expert not so forewarned (as Mr. Feehan was presumably not forewarned) would be even more likely to be mistaken in his attempted identification.

At my request Mr. Tytell undertook to try to create such a machine. The machine he built is now in my possession and, as his affidavit (Exhibit I-A annexed) shows, it was constructed solely from samples of typing on the alleged Hiss machine. Neither he nor anyone working with him has been allowed at any time to inspect the machine which he was attempting to duplicate, or to take impressions of the original type on it.

It became apparent early in the experiment that it would be necessary to secure the assistance of an expert document examiner, not participating in the manufacture of the machine, who would inspect the results as the experiment progressed and give suggestions as to where improvement was needed. Finding such an expert proved an extremely time-consuming task. Expert after expert declined to take any part in the experiment, some of them basing their refusal on firm disbelief in the possibility of the experiment's success, and others more or less frankly intimating that they did not wish to contribute to the success of any experiment which they feared would have adverse effects on the profession of document examination. One well known expert placed his refusal on the ground that in order to demonstrate the success of the experiment he would have to try to deceive a brother expert, which he would consider an unethical course of action.

After many months an associate suggested to me that I consult Miss Elizabeth McCarthy, whom he described as the leading document expert in New England. I did so, and found her willing and able to help. Her work during the course of the experiment has been confined to examining and comparing samples from the two machines, advising as to progress, and making suggestions as to improvement. At the conclusion of the experiment I asked her to embody her conclusions as to its success in an affidavit. Her affidavit is annexed as Exhibit I-B. As it shows, she concludes that the duplication has progressed to such a degree that an expert in the field, however highly qualified, would find it difficult if not impossible to distinguish between samples from the two machines. Her affidavit annexes samples from the two machines, which she believes will demonstrate the soundness of her conclusion.

Of course, any expert now examining these samples in the knowledge that two machines have been used will be forewarned to use much

more rigid standards of examination and comparison than would heretofore have been the case. It is Miss McCarthy's opinion that even though an expert so forwarned might on that account be successful in differentiating the products of the two machines, an expert not so forewarned would conclude that all the samples were made on a single machine. Moreover, she expresses the opinion that the relative, even if not complete, success of the experiment demonstrates that the testimony of the Government's expert, Mr. Feehan, at the second trial, basing his conclusion of identity of machines on the identity of only ten characters in the two sets of documents, is absolutely worthless.

As the experiment was reaching its conclusion I also enlisted the aid of Mrs. Evelyn S. Ehrlich, of Boston, Massachusetts, who was for many years associated with the Fogg Art Museum at Harvard University as an expert in the detection of typographic and other forgeries. I submitted to her samples from the two machines, taken in December, 1951, and early January, 1952. Without any key from me she successfully differentiated the machines, but told me that she considered the duplication to be far more precise than she had imagined possible, and that in her opinion only a very small number of minor discrepancies remained on the basis of which an expert could possibly differentiate the machines. I then asked her to read Mr. Feehan's testimony at the second trial and, having done so, to give me her opinion as to whether the products of my two machines would show as many identical peculiarities as Mr. Feehan had relied on in his testimony as sufficient to prove that the Baltimore Documents and the Hiss standards had been typed on a single machine. She advised me that that was her opinion and, further, that in her opinion the duplication had proceeded to a point where any document expert who, acting with reasonable care, applied the Feehan criteria to specimens from the two machines in the condition which they were in at the time the samples she had seen were made, would reach the conclusion that a single machine had been used to type the two sets of samples.

At my request Mrs. Ehrlich has embodied her opinion in an affidavit (Exhibit I-C) and has accompanied her opinion with extensive photographic material demonstrating the basis for her opinion. As she points out in her affidavit, the examples she selects are illustrative only, as she finds in the two sets of documents far more identical deviations than the ten on which Mr. Feehan relied in his testimony.

In addition, I asked Mrs. Ehrlich whether, from comparison of available specimens of the Hiss standards with current samples from Woodstock #230,099 she could form any conclusion as to whether Woodstock #230,099 was in fact the machine used to type the Hiss standards. Her opinion, expressed in her affidavit, again with illustrative photographic material, raises serious question as to whether it was, although in the absence of original documents in better condition she finds it impossible to form a definite opinion.

The significance of the evidence offered on this point is that it demonstrates a technique of forgery which experts have heretofore not considered practicable, and which Mr. Feehan cannot be supposed to have taken into account. That technique depends, of course, upon the availability of specimens from the typewriter to be duplicated; but there is no question that such specimens would have been available in this case. The new evidence therefore renders valueless the testimony relied upon by the Government to ascribe the typing of the Baltimore Documents to the Hiss machine.

II

Indications of Forgery in This Case

As it became more evident in the course of the experiment described in Point 1 above that Chambers *could* have created a machine so similar in its product to that owned by the Hisses in the early 1930's as to "stump the experts", counsel for Alger Hiss began to turn their attention to the problem of why Chambers should have done so, and, if he had, what had become of it. As to *why* he should have done so, it could have been because he could not find the original Fansler-Hiss machine when he needed it, or, if he knew where it was, could not or did not dare steal it. The risks of discovery involved in even a discreet hunt for the old machine might have seemed considerable, and would be avoided by using a duplicate machine if the forgery could be made convincing enough.

On the other hand, it could have been that Chambers got hold of the original Fansler-Hiss machine and found it unworkable. This could have been so whether the forgery occurred in 1938 (the approximate date of the State Department documents) or in 1948, when he needed to fabricate some evidence to protect himself in the libel suit; for there was evidence at the trial, *not* emanating from Chambers, that the Fansler-Hiss machine was unworkable in 1938 (R. 1598-9, 1728-9) and also in 1945, when Lockey found it in the rain (R. 1558-9, 2637). In this case, it would have been necessary to fabricate a duplicate, and it would have been most natural, when the work of duplication and forgery was completed, to return the duplicate in place of the original as a means of increasing the deception.

The more this theory was considered, the more tenable it appeared, especially if the forgery and substitution occurred in 1948. When Chambers appeared before the House Committee on Un-American Activities in August, 1948, he gave no hint, any more than he had done in his meetings with Berle (1939) and Raymond Murphy (1945-6), that there were any such things as the Baltimore Documents in existence. Not until the pre-trial deposition hearings in the libel suit in Baltimore in November, 1948, did he suddenly change his story, assert that Alger Hiss had been engaged in an actual espionage operation, and produce the Baltimore Documents with the charge that they had been typed by Priscilla Hiss and given to him by Alger. On the face of it this switch suggested that the documents had been recently typed; and the documents themselves showed that they had been typed on a machine in adquate working condition. Moreover, the machine recovered by the defense from Lockey and placed in evidence (Woodstock #230,099; Defendant's Exhibit UUU) was clearly in adequate working condition; Government witness McCool demonstrated its fitness in court at the trial (Government's Exhibit 66-A; R. 3019), and I can state from my own observation that it is still a relatively efficient machine.

Against this background another peculiarity began to assume importance. It had been established at the trial that the Hisses had disposed of their typewriter by giving it to the two sons of their colored maid, "Mike" and "Pat" Catlett, possibly as early as December, 1937, and certainly no later than April, 1938 (R. 1584-6, 1716-7, 1719-22, 1731-2, 2965-7). Before the trials both the Government and the defense had made earnest efforts to trace the machine. Finally, the defense had been successful in locating a typewriter which, allowing

for lapses in memory over the years, answered the description of the Hiss machine, and which apeared to be traceable through several hands back to the Catletts. An expert retained by the defense had examined the machine and typing from it, and expressed the opinion that it was the same machine as had been used for the admitted Hiss specimens. The defense had accordingly introduced it at the trials on the theory that it was the Hiss machine, and the Government appeared to take the same view; in fact the prosecutor, in summation to the jury at the second trial, pointed to the machine, and said dramatically: "They [the Baltimore Documents] were typed on that machine (indicating). Our man said it was" (R. 3254). And the jury was even instructed by the trial judge that the identification of the typewriter was part of the Government's case (R. 3272).

Yet in fact no Government man had said anything of the kind. No witness for either side had testified that Defendant's Exhibit UUU was the machine used for the Baltimore Documents, or for the Hiss standards typed in the early thirties. The defense would have had no occasion to make such an identification, but it seemed peculiar that the Government's case had been silent on the matter. The typewriter had been impounded with the clerk by court order at the conclusion of the first trial. I am informed (although I have not been able to verify the fact) that at some time between the two trials the machine was temporarily released to the Government (presumably by authority of the Court) so that for all I know it may have been submitted to expert examination by the Government at that time. Whether it was or not is immaterial; in either event the Government made no effort at the second trial to identify it by *testimony* as the Fansler-Hiss machine. The Government's expert Feehan confined his testimony to comparison of the Baltimore Documents and the admitted Hiss specimens. Could it be that the Government also was suspicious of the machine's authenticity?

In the light of all these considerations, and bearing in mind that the expert who before the trials had identified the machine for the defense had rested his opinion on identical peculiarities in only three characters, apparently without consideration of the possibility of a deliberately fabricated machine, I determined to make a thorough study of the authenticity of Woodstock #230,099. That study has produced results which are startling, as far as they go. Admittedly, for reasons described below, they do not go far enough to demonstrate with any certainty that #230,099 is a fabrication; but I believe that they go far enough to cast serious doubt on its authenticity, and to justify calling upon the Court for its aid in supplying the missing links in the chain of evidence.

The general conclusions from my investigation are as follows:

1. According to the best information I have been able to uncover, a Woodstock typewriter bearing the serial number 230,099 would have been manufactured in or around August, 1929, and certainly no earlier than the first week of July 1929. At the same time the best available information indicates that the typeface style on our machine (#230,-099) was a style used by the Woodstock Company only in typewriters manufactured in 1926, 1927 and 1928, and possibly the early part of 1929. These inconsistencies point to the conclusion that #230,099 is a fabricated machine.

2. The documents admittedly typed by the Hisses on the machine owned by them in the early 1930's (Government's Exhibits 34, 36, 37, 39, and 46-B; Defendant's Exhibits SS, TT) were typed on a machine previously owned by Mr. Thomas Fansler, father of Mrs. Hiss. The available evidence points to the fact that this machine was in use in Mr. Fansler's office at least as early as July 8, 1929, and therefore could not have been the typewriter now in the possession of the defense—#230,099.

3. The Government has interested itself in, and has since before the second trial had information about, another machine, bearing a different serial number. There is some indication that the Government has in fact found the machine for which it was searching. In view of the conclusions in paragraphs 1 and 2 above, it would seem probable that this machine, rather than #230,099, is the original Fansler-Hiss machine. Significantly, my investigation of the authenticity of #230,099 is the only phase of my investigative activity which to my knowledge has invoked Government surveillance.

The data upon which the foregoing conclusions are based can only be understood by a somewhat detailed account of my investigation.

History of Investigation of the Typewriter

Early in the course of the experiment described in Point I, I sent a representative to the Woodstock factory at Woodstock, Illinois, to secure type of the same kind as used in #230,099. Upon his return he informed me that Mr. Schmitt, the Factory Manager, had advised him that the kind of type he was looking for could not belong to a machine with the serial number 230,099, since such a machine would have been manufactured in August or September, 1929, whereas the kind of type requested had been discontinued at the end of 1928. He also told me that Mr. Schmitt had mentioned, without elaboration, that his company "had helped the FBI find the typewriter in the Hiss case."

In an attempt to verify the information given by Mr. Schmitt as to the date of manufacture of #230,099, I had an inquiry made by Mr. Robert C. Goldblatt, a typewriter expert of Chicago, Illinois. This inquiry resulted in an affidavit from J. T. Carlson, Vice-President in Charge of Manufacturing of R. C. Allen Business Machines, Inc., the company which succeeded to the business of the Woodstock Typewriter Company. Mr. Carlson's affidavit, which I annex as Exhibit II-A, indicated that a machine with a serial number only slightly lower than 230,099 would have been made in April or May, 1929.

In view of this divergence of reports, I arranged to have representatives again visit Woodstock to seek an explanation of the discrepancy. My representatives reported to me that at this meeting Mr. Carlson stated that his affidavit had been prepared for him by a clerk and that he himself was not familiar with the facts. He and Mr. Schmitt then produced for inspection certain production records which showed the number of machines manufactured each month during the year 1929, as well as the serial numbers at the beginning and end of that year. One of my representatives, an attorney, further reported to me that after examining these records and discussing their significance with Messrs. Carlson and Schmitt he prepared a draft of an affidavit for Mr. Schmitt's signature, setting forth as accurately as he could the

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relevant facts from the records and the inferences which he thought could properly be drawn from them as to the date of manufacture of #230,099. According to this attorney, he returned to Mr. Schmitt's office and gave him the original draft affidavit, and was told by Mr. Schmitt that he would have to consult counsel before signing any affidavit in this matter. I have heard nothing further from Mr. Schmitt or Mr. Carlson with respect to the affidavit.

The attorney who prepared the draft affidavit delivered to me on his return to New York what he described as an original carbon copy of it, and I attach this document as Exhibit II-B. I have requested this attorney to authenticate his draft by an affidavit of the circumstances surrounding its preparation; but he has advised me that although he knows that what he prepared represented at the time his understanding of the records he is unwilling for fear of personal consequences to himself to sign any affidavit connected with the Hiss case.

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Having in mind that in any event examination of the records by someone experienced in studying typewriters and their histories might be more productive of accurate results, I later asked one Donald Doud, a document examiner from Milwaukee, Wisconsin (whom I had retained in connection with another aspect of the case, described more fully below) to see if he could arrange for inspection of the records at Woodstock. He reported to me that his written request for an interview and inspection was denied by letter dated December 6, 1951, from Mr. Schmitt, and he sent me Mr. Schmitt's original letter. A photostatic copy of Mr. Schmitt's letter to Mr. Doud is annexed as Exhibit II-C. Mr. Doud has refused to authenticate this letter by affidavit for reasons I describe below (see Exhibit II-G), and now has the original in his possession.

It will be seen that both the facts reflected in the affidavit prepared for Mr. Schmitt's signature (Exhibit II-B), and Mr. Schmitt's letter of December 6, 1951 (Exhibit II-C), indicate that the date of manufacture of #230,099 was not before July, 1929. I have prepared, and attach as Exhibit II-D, a memorandum explaining how this conclusion is necessarily derived from the records inspected by my representatives at Woodstock.

Paralleling the inquiry as to the date of manufacture of #230,099, I initiated an investigation to ascertain the date of original purchase of the Fansler-Hiss machine. The obvious line of inquiry lay in Philadelphia, where Mr. Fansler had been at the time General Agent of the Northwestern Mutual Insurance Company of Milwaukee, Wisconsin. Our files showed that in December, 1948, before the typewriter had been found, a defense investigator had reported an interview with Harry L. Martin, Mr. Fansler's secretary or office associate at the time, in which Martin had told him that the Fansler Woodstock had been originally purchased in early 1928. This seemed worth checking on further and I had a representative attempt to interview Mr. Martin again. My representative informed me that Mr. Martin had declined to grant him a personal interview, and had stated that he would not discuss the matter under any circumstances without the formal consent of the Agent in charge of the FBI in Philadelphia.

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I also requested Kenneth Simon, an attorney then associated with the Hiss defense, to try to locate the dealer from whom Fansler had acquired his machine. Mr. Simon's affidavit as to the results of his inquiry is annexed as Exhibit II-E. As the affidavit shows, Mr. Simon on several occasions interviewed Mr. O. J. Carow, who had been Branch

Manager of the Woodstock Typewriter Company Sales Agency in Philadelphia from 1927 until its discontinuance in 1938. From these interviews several significant facts appeared:

(a) Mr. Carow had been interviewed in late 1948 or early 1949 by the FBI, and had been asked in connection with the Hiss case to locate records of the sale of a machine with a given serial number. He could not remember the exact serial number, and had not been able to find any record of the sale of the particular machine; but he recalled that on the basis of other records in his possession he had advised the FBI that the machine they were interested in would have been sold in Philadelphia in November 1927, with a six months margin of error.

(b) Mr. Carow was unable to give even an approximation of the date on which #230,099 would have been sold because the FBI had taken away, and never returned to him, all the material on which he had based his calculation of the date of sale of the machine in which they were interested, and after their visit he had destroyed most of the rest of his records.

(c) Mr. Carow thought, although he was not certain, that the machine the FBI was interested in had a serial number different from 230,099.

(d) Between Mr. Simon's first and his last visit to Mr. Carow (i.e., between October 23, 1950, and January 18, 1951) FBI agents, including a Mr. Kirkland, had been in touch with Mr. Carow to find out what it was that Mr. Simon was trying to learn, and what Mr. Carow had told him.

Mr. Simon's inquiry thus helped us very little in our effort to find out when the Fansler-Hiss machine was originally purchased by Mr. Fansler. It did, however, indicate:

(1) that the FBI, in its search for the original typewriter, had had a serial number to work from, and that that number was different from the number on the machine which the defense had found before the first trial.

(2) that the machine the FBI was looking for had been first sold in late 1927 or early 1928, and so could certainly not be a machine made in 1929, as a machine numbered 230,099 must have been.

(3) that the records which might make it possible for us to prove our point were unavailable, because either the FBI had them or they had been destroyed, and that as late as the end of 1950—nearly a year after the finish of the second trial—the FBI was still enough interested in the problem of the typewriter to be keeping our investigative efforts under surveillance;

This search in Philadelphia for the original sales record of the Fansler machine was only one of the lines of investigation I followed trying to date Fansler's purchase of the typewriter. As a separate inquiry I decided to try to locate letters typed in Fansler's office in the late twenties, with the thought that if I could have such letters compared by an expert with the letters typed by the Hisses in the 1930's, the expert could show just when the typewriter first came into use in the Fansler office.

The most likely place to find such letters was clearly the home office of Fansler's employer, the Northwestern Mutual Life Insurance Company, in Milwaukee, Wisconsin. In early October, 1950, I telephoned Mr. G. M. Swanstrom, the Company's General Counsel, and arranged to have him meet with one of my representatives. My representative reported to me that at the meeting Mr. Swanstrom showed him photostats of letters from the Fansler office written in 1928, 1929, and 1930, but would not allow him to see the originals or to borrow the photostats for examination by an expert. The 1929 letters, according to my representative, were dated January 14, June 29, July 8, and August 21; and the July 8 and August 21 letters appeared to him to be typed on a Woodstock, and on a different machine from that used for the earlier letters.

At my request my representative made a further attempt about a month later to persuade Mr. Swanstrom to let him have an expert examine the Northwestern Mutual letters, and compare them with the Hiss standards. He reported that again Mr. Swanstrom declined, this time saying that prominent policyholders of the Company had indicated disapproval of permitting access to the Company's files without a subpoena. As I had no legal right to a subpoena, I could do nothing.

For a while the matter necessarily rested there, but in September, 1951, a private investigative agency which I had retained to cover certain limited aspects of the inquiry for me reported that Mr. Swanstrom might be willing to release the letters for examination to a Mr. Donald Doud, a document examiner in Milwaukee practising in association with Mr. John F. Tyrrell, a former employee of Northwestern Mutual who had made himself a considerable reputation in the field of examining questioned documents. I went to Milwaukee, and found Mr. Doud already in possession of the originals or photostats of a substantial number of letters written from the Fansler office to Northwestern, running in date from July 23, 1927, to February 14, 1930—including photostats of the July 8 and August 21 letters which my representative had seen in Mr. Swanstrom's office. We talked over my problem at length, and I explained that since I had reason to believe that #230,099 had not been made before July, 1929, it was important for me to know whether, in the view of an expert, the Fansler letter of July 8, 1929, or any of the earlier letters was written on the same machine as had been used for the Hiss specimens in evidence at the trial; for if so it would follow that the machine we had found—#230,009—could not be the original Fansler-Hiss machine. I gave him for comparison purposes the originals or copies of the Hiss standards, and also photostats of some of the Baltimore Documents. Mr. Doud undertook, for an agreed fee, to make the necessary document examination and to give me his expert opinion as soon as practicable.

Mr. Doud sent me his opinion on November 6, 1951. I annex his letter as Exhibit II-F. As will be seen from a reading of it, he concludes:

> (1) that the Northwestern Mutual letters from the July 8th letter on were written on an "apparently quite new" Woodstock machine different from the machine used for the earlier letters.
>
> (2) that the Northwestern Mutual letters dated July 8, 1929, and later "agree in typeface pattern" with the Hiss specimens, as well as with the Baltimore Documents, and show a tendency "toward the development of typeface defects that later became so

highly identifying in the 1933 and 1935 specimens and the Baltimore Letters."

(3) that he could "find no evidence to show that these early Northwestern Life specimens from July 8, 1929 to February 14, 1930 *could not* have been written on the same typewriter used for the Baltimore Letters and the Standard Hiss specimens".

(4) that the model typewriter all these letters were written on was of a kind made from 1926 "until some time the latter part of 1928 or early in 1929", and that the letters show "complete agreement in typeface style" with specimens of typewriting from his files dated in 1926, 1927, and 1928.

Although Mr. Doud had been working in large part from photostats which necessarily limited the certainty of his conclusions, it seemed to me that his opinion went far to show that I was on the right track: that the Fansler-Hiss machine could not be the one the defense had found, and that our machine, #230,099, must therefore be a fake, deliberately planted on us by somebody. This would follow not only from his opinion with regard to the July 8th letter, but even more strongly from his opinion that the model typewriter used in the Fansler office from July 8th on, and later by the Hisses, was a model made in 1926, 1927, 1928, or early 1929. Accordingly, I asked Mr. Doud to embody his conclusions in an affidavit, with whatever qualifications he might wish to make arising from the limitations within which he had had to work.

To my surprise Mr. Doud declined to make any such affidavit, or even to authenticate the letter which he had received from Mr. Schmitt at Woodstock in answer to his request to be allowed to look at the production records (Exhibit II-C). I attach as Exhibit II-G Mr. Doud's letter of refusal, dated January 14, 1952. His stated reason is quite clear: he does not believe that it would have been possible for anyone to have faked a typewriter, and therefore he declines to make any affidavit which might be used in connection with an attempt to show that that may well have been done.*

Nothing in his letter of refusal retreats from the conclusions stated, in however qualified form, in his earlier opinion letter (Exhibit II-F). I attach the letter of refusal for two purposes: (1) to show why I cannot present the original conclusions in affidavit form; and (2) to show to the Court in the most effective form possible the extraordinary difficulties with which the defense has been confronted in its effort to uncover Chambers's methods of operation. Mr. Doud's reference to "evidence [he has] gathered to date" is misleading; Mr. Doud gathered no evidence, but simply made a comparison of certain letters I furnished him with certain letters Northwestern Mutual furnished him. He has never seen #230,099. He has not been asked to give any opinion as to specimens from it. He has not examined the records as to its date of manufacture. He knows nothing about it.

* As a second reason for his refusal Mr. Doud states that he had to work in part from "blurred photostats", and that "any judgment based upon such poor reproductions must be a qualified one." It will be noted that Mr. Doud's opinion letter of November 6th made no such complaint; and at my conference with him in September, when we both examined the specimens from which he would be working, he raised no question as to the inadequacy of the photostatic reproductions.

He concludes, from "typeface style and pattern", that the Fansler-Hiss typewriter "must have been manufactured during * * * 1926, 1927, 1928, or possibly early 1929", and that therefore Mr. Schmitt must be wrong in saying that that #230,099 was made in July or August 1929.

Why must Mr. Schmitt be wrong? Evidently because, unless he is, the experts could be wrong when they say a machine could not be fabricated. But maybe the experts could be wrong too.

The foregoing is an unfortunately but necessarily elaborate account of the investigation into the authenticity of the typewriter. I do not contend that it has produced usable evidence which would conclusively demonstrate that a fabricated typewriter was used to forge the Baltimore Documents, or that such a typewriter was planted on the defense for deceptive purposes. I do contend, however, that considering the extraordinary handicaps which surround any such investigation on behalf of a private citizen, the matters hereby brought to the Court's attention give rise to such serious doubts regarding that part of the Government's case which rested on the typewriter that justice cannot be done unless the case is reopened for further proof according to law.

It is the handicaps surrounding the investigation which most require the Court's attention. We search for records—the FBI has them. We ask questions—the FBI will not let people talk to us. We request access to ordinary documents in corporate files—corporate officials fear the wrath of their stockholders. We ask people to certify information in files they have shown us—they must consult counsel, and we hear no more from them. We pay experts to give us opinions—and they decline to back them up in court because they "cannot subscribe" to anything which might support the conclusion we believe the facts point to.

And, even worse, honorable and patriotic citizens who have wanted to help have been deterred by the appearance—whether or not it is reality—of official surveillance and wiretapping, and others who have labored to gather information for us in the interests of justice are afraid to come forward for fear of personal consequences which might result to them from public association with the defense of Alger Hiss.

Anyone alive to today's events knows that as a result of Chambers's stories and the trials based on them the name Alger Hiss has become synonymous with treachery and betrayal in high office. If he was guilty, this is perhaps as it should be. But if he was not, it is tragic that the fear and hysteria of the times should be allowed to impede so gravely the efforts of his defenders to unearth and present the evidence which would clear his name.

If a new trial were granted, the defense could then, through subpoena power, present to the jury in evidentiary form much of the information which has necessarily been reflected in this affidavit as hearsay—however reliable. And I urge that the information presented herein is of such significance that if it had been possible to present it to the jury in the second trial, the jury could not but have been shaken from its faith in the genuineness of the Baltimore Documents, the Government's principal corroboration for Chambers's story. A new trial should therefore be granted, without more. But if the Court is not so convinced, I urge, and even more strongly, that in its

consideration of this motion the Court should in the interests of justice invoke its own inquisitorial power. These questions cannot be set at rest unless the Court will bring before it the witnesses who have refused to make oath for us, require the production of documents which have been closed to us, and call upon the Government to show what it knows about the typewriter. And if, as we have deep reason to believe, the Government knows relevant facts about the typewriter which it has during and since the second trial concealed, that alone should require a new trial.

III

Edith Murray

Edith Murray was first produced by the Government as the eighteenth out of twenty Government rebuttal witnesses at the end of a second trial which itself lasted nine weeks. She provided dramatic support for the Chamberses' colorful story of intimate social relations they claimed to have enjoyed with the Hisses. The substance of her brief direct testimony was that in 1934-5 and 1935-6 she had worked as a maid for the Chamberses (under their assumed name of Cantwell) at their homes at 903 St. Paul Street and 1617 Eutaw Place, Baltimore, and that in the course of the latter period she had seen Priscilla Hiss some four times and Alger Hiss once on social visits to the Chambers-Cantwells.

In view of the way Edith Murray was "sprung" by the Government as a witness on the last day of the trial, the defense had no way of preparing to test her truthfulness or the accuracy of her recollection by cross-examination. It was, nevertheless, brought out that FBI agents when they first visited her had shown her pictures of the Hisses (R. 3037) and that she had been most uncertain of any identification at that time. Then she had been taken out to the Chamberses' Westminster farm (R. 3036), where naturally she was available to suggestion as to what her recollection ought to be regarding whether and where she had worked for them and what had happened when she had done so (see R. 3040-3). Thereafter she saw the FBI "quite a bit" (R. 3042); and at the opening of the second trial she was sent up to the courthouse in New York to see whether she "could recognize the woman that was in the picture and the man on the picture" (R. 3056; see also R. 3032-3). She pointed them out successfully. It is scarcely surprising that after this course of education she was able to say on the stand that they were definitely the people she had seen fourteen years earlier at the Chambers-Cantwell home—even though she did not claim to have seen Alger for more than a few minutes on a single occasion (R. 3033), and even though her memory for personal characteristics was so vague that she could not remember whether Chambers, her alleged employer over a large part of two years, had had a mustache (R. 3057).

Edith Murray was the first and only person ever produced, out of the hundred and fifty million people in the United States, to give any support to the Chamberses' story of their relations with the Hisses—unsecret as those relations were supposed to have been. Though the reliability of her recollection was shown to be most suspect, her dramatic appearance as a rebuttal witness must have had an incalculably dynamic effect upon the jury. Beyond question, the Government planned it that way.

I attach, as Exhibit III-A, a copy of an article in two installments in the August 6 and 13, 1950, issues of the American Weekly (Sunday magazine section of the Hearst newspapers) entitled "How the FBI trapped Hiss". While articles in the press would ordinarily be of no moment on a motion of this kind, this particular article acquires significance because of its apparent sponsorship by the Government. I quote from its opening paragraphs:

> High officials of this nation he betrayed testified Alger Hiss bore an excellent reputation for loyalty, integrity and veracity.
>
> A little Negro maid proved him a liar to clinch his conviction for perjury committed in denial of a traitorous act.
>
> If Edith Gland Murray had testified at the first Hiss trial there probably would have been no jury disagreement.
>
> The government was aware of her existence and of her possible great importance but she could not be found. The FBI, racing the clock in the search for her, fine-combing Baltimore for her whereabouts, following time-dimmed leads to dead-ends across the nation, didn't even know her name and knew only vaguely what she looked like 14 years before. And Edith Murray had no idea she was sought.
>
> How the FBI found her on the very eve of Hiss' second trial after a solid year of tracking and back-tracking is a fascinating story. How she justified the effort and how her memory of a simple truth baited the trap into which Hiss thrust his neck complete a drama that matches the finding of stolen State Department papers in a pumpkin on the Maryland farm of Hiss' accuser, Whittaker Chambers.
>
> I heard from J. Edgar Hoover in Washington an outline of the story of search for Edith Murray. He described it as "one of the finest examples of FBI investigative procedure." I asked if I might have it in detail for The American Weekly and he agreed.
>
> The considerable research necessary to correlate the reports of all FBI agents engaged in the hunt recently was completed and a 14-page condensation made available. With this account I visited Asst. U. S. Atty. Thomas F. Murphy, prosecutor at both trials, to build up the climax from his records. *These he produced and helped screen to stress the importance of Edith Murray to the final conviction.* (Italics added.)

Beyond question, the Government's case reached its climax in Edith Murray's testimony. If, then, it can be shown that—whether deliberately or as an innocent victim of suggestion—she testified without basis in fact, that in itself should be sufficient ground to call for a new trial.

I attach as Exhibit III-B an affidavit of William Reed Fowler of Lutherville, Maryland, showing his intimate familiarity with the menage at 903 St. Paul Street during the period—1934-5—when the Chamberses claim to have lived there, and asseverating that no maid was employed during that period by the tenants or otherwise in the house. Mr. Fowler even casts doubt on Chambers's assertion that he lived at 903 St. Paul Street.

I attach as Exhibit III-C an affidavit of Louis J. Leisman, of 206 E. Read Street, Baltimore, Maryland, the custodian and rent collector at the apartment house adjoining 1617 Eutaw Place during the winter of 1935-6, the period during which Edith Murray claims to have seen the Hisses. Mr. Leisman shows that he knew Chambers-Cantwell during this period, that he observed him frequently, and that he knows that he had no maid during that period, colored or otherwise.

Clearly, whether or not Edith Murray worked for the Chamberses at some time and some place, it was not at the time and place where

she said she saw the Hisses. Therefore, she did not see them, as she said she did, and I believe that fairness and justice call for giving the defense an opportunity to establish that fact at a new trial.

IV

Chambers's Break With the Communist Party

Throughout the early versions of his story, Chambers consistently placed the time of his break with the Party as being at the end of 1937. He so advised Adolf A. Berle, Jr., according to Mr. Berle's recollection, at their conference at the end of August 1939 (H. Hearings, 1293)—when it might be supposed that his memory for dates would have been fresh. He repeated the statement to Raymond Murphy of the State Department at their meetings in 1945 and 1946, saying on the latter occasion that he "entered into the Washington picture in the summer of 1935, and left it and the Party at the end of December, 1937" (Government's Exhibit 17; R. 3323). Before the House Committee he swore repeatedly that the break occurred in 1937 (*e.g.*, H. Hearings, 565, 572, 573).

In one of his later appearances he amplified this. Appearing on August 30, 1948, he described under oath his acceptance of a position with the United States Government as a means of "establishing an identity" (H. Hearings, 1287). He was not quite certain when this occurred, but thought it was "1937 or the beginning of 1938" (H. Hearings, 1289). As to the date of leaving the Party, he testified as follows:

> Mr. Nixon: How long did you hold the job, Mr. Chambers?
> Mr. Chambers: I don't think more than 2 months, perhaps 3.
> Mr. Nixon: After you left the job, what happened then? Did you leave the party immediately?
> Mr. Chambers: I think there may have been 2 or 3 weeks in between. I have no longer a recollection, but I left very shortly thereafter.
> Mr. Nixon: In other words, you severed your relationship with the party completely a few weeks afterward?
> Mr. Chambers: I disappeared.
> Mr. Nixon: Completely disappeared?
> Mr. Chambers: Yes, sir (H. Hearings, 1287-8).

Chambers's employment record in the job in question, in evidence as Defendant's Exhibit J, R. 3663, shows that in fact he entered on the job October 18, 1937, and was placed on furlough as of February 1, 1938. His "disappearance" must by his own story therefore have occurred "2 or 3 weeks" after February 1, 1938.

At the second trial, however, the story is changed. According to the new version, his break with the Party occurred approximately in the middle of April, 1938: "I believe it was April 15" (R. 264). Upon this break he moved his family to a room on Old Court Road, near Baltimore, where he stayed for about a month, until he "had obtained a translation to do" from Paul Willert of the Oxford University Press—a translation of a book entitled "Dunant—The Founder of The Red Cross." As soon as he had the translation and an advance he went to Daytona Beach, Florida, where he "finished the translation, and after a month returned to New York" (R. 264-5).

Chambers himself was aware of—or could not escape from—the inconsistency. On cross-examination he was asked: "Now, did you

on a number of occasions say that you broke with the Party in 1937?", and he replied: "Yes, I did." He was further asked: "Is that date correct?" and replied: "It is not" (R. 264).

It is obvious why Chambers had to change his story. He had first produced the Baltimore Documents at a pretrial deposition hearing in the Baltimore libel action on November 17, 1948—when he needed some kind of evidence to protect himself against liability for his charges of Hiss's Communist affiliations. The documents he produced covered dates running from January 5 to April 1, 1938.* Once he had produced them, his old story of having left the Party in 1937, or no later than the middle of February, 1938, would no longer do. He had to provide a new date for his break; otherwise he could not sustain his new tale that he had been collecting State Department information from Alger Hiss for Communist espionage purposes through January, February, and March, 1938. So for the end of his Party activity he came up with April 15, 1938—a convenient date which would allow for the mechanics of abstracting and copying documents received in the Department as late as 7:45 on the evening of April first (Government's State Exhibit 46(4); R. 3627).

The suspicious characteristics of Chambers's changed story were evident on the trial record, and are reiterated here only because the defense has now come into possession of evidence showing that the second story, not the first, was the false one. This new evidence establishes that Chambers had left the Party and secured his translation from the Oxford University Press at least by early March, 1938. Therefore his whole story of Hiss as the source of State Department documents running into April is shown up as a fabrication.

First, I attach as Exhibit IV-A an affidavit of Dr. Martin Gumpert, of 315 East 68th Street, New York, N. Y., the author of the book which Chambers translated. This affidavit recites in general the history of the translation. It shows that the book was first assigned for translation to Mrs. Rita Reil, at some time before the end of December, 1937. Before very long a new translator, Chambers, was substituted. As soon as he was engaged Dr. Gumpert asked to meet him, but was told by the publisher that he could not do so because "he was in hiding from the Russian secret service, known as the G.P.U. and that because he was in hiding he constantly changed his address, and, also, that because he changed his address constantly the Oxford University Press was unable to contact Mr. Chambers, but had to wait for him to contact the Oxford University Press."

Both by Chambers's own testimony and by Dr. Gumpert's affidavit, the date when Chambers got his translation clearly marks the outside limit of Chambers's Party activity. I have made contact both with Mrs. Rita Reil, the first translator, and with Paul Willert, then Vice-President of the Oxford University Press in New York and the editor in charge of publication of Chambers's translation. Together, they confirm the basic facts reflected by Dr. Gumpert's affidavit, and upon a new trial, if one is granted, I intend to call each as a witness; but neither can be any more precise as to the relevant dates than Dr. Gumpert.

However, other records which have now become available to the defense are more precise. I have personally examined the files of the Oxford University Press, 114 Fifth Avenue, New York, relating to

* That is, the State Department documents copied or paraphrased in the Baltimore Documents were shown to have been received in the State Department between those dates, inclusively.

Chambers's translation of Dr. Gumpert's book, and I have caused an examination to be made of the files of Dr. Gumpert's London agent, Pearn, Pollinger & Higham, Ltd., 39-40 Bedford Street, Strand, London, W. C. 2, regarding the same subject matter. I attach copies of the relevant documents in those files, marked Exhibits IV-B-1 to IV-B-24, inclusive. Though these documents still do not fix the exact date when Chambers got his translation, they prove beyond question that the date was not only well before the middle of May—Chambers's date in his second trial testimony—but well before April first, the date of the last State Department document covered by the Baltimore Documents. Chambers had made his arrangements, got the bulk of his translation, and an advance of $100, early in March at the latest.

1. Chambers had obviously gotten his translation some time before April 12, 1938, since Willert's letter of that date to him (Exhibit IV-B-11(a)), which the Post Office was unable to deliver (Exhibit IV-B-11(b)), asks how he is getting on with it, and implies that some results are already due. This is confirmed by the fact that a portion of the manuscript had been mailed to him at his Mt. Royal Terrace address in Baltimore on March 18, 1938 (See Exhibit IV-B-9). The delivery instructions were "RUSH — MUST REACH BALTIMORE SATURDAY EXPRESS"; i.e., the next day, since March 18, 1938, was a Friday. Taken alone, this could mean merely urgency on the part of the publisher, or it could more probably mean that Chambers had advised that after March 19th he would no longer be available to pick up the package. That Chambers went into hiding at or about that time is clear from his handwritten letter dated May 3rd to Willert (Exhibit IV-B-16), in which he says: "I have not been at Mt. Royal Terrace for more than a month." In any event, Chambers had clearly become a translator by March 18th, and therefore by his own account must have been out of the Party by that date.

2. The same proof may be tied in more specifically to the Baltimore Documents Chambers claimed to have gotten from Hiss. The last of the State Department messages covered by the Baltimore Documents was an incoming cable dated April 1, 1938 (Government's State Exhibit 46(4)), the third message paraphrased in Government's Baltimore Exhibit 46). This message shows on its face that it was received in the Department at 7:45 P. M. on that day, and therefore it could not have been distributed to the Departmental offices until April 2nd—a Saturday. If Chambers had visited Hiss for a pick-up on April 2nd he would—according to the system he described at the trial—have taken not a typed copy, but the original for photographing that night or over the weekend. There would have been no occasion to paraphrase and type the message if Chambers had visited on April 2nd or 3rd. To have picked up a typed copy he would therefore have had to visit on Monday, April 4th, or some later day. But by April 4th, he was already in hiding, for in the letter of May 3rd to Willert he said that he had not been at Mt. Royal Terrace "for more than a month".*

* Although Chambers's handwritten letter bears the date "May 3, 1938", it seems probable that it was actually written on May 4th. From the subject matter, both it and the typed letter dated May 4th (Exhibit IV-B-17) were obviously in answer to Willert's letter dated May 4th (Exhibit IV-B-15). In view of Willert's urgency and irritation he would undoubtedly have written Chambers air mail, and his letter might well have reached General Delivery in St. Augustine on the same day. The fact that stamped notations show that neither of Chambers's answering letters was received by Willert until May 9th is consistent with the facts that Chambers, needing money (see Exhibit IV-B-17), would not have used air mail, and that a weekend intervened, May 9, 1938, being a Monday.

Baltimore Document 46 cannot therefore have been received by Chambers in the manner he asserted at the trial—a further proof out of his own mouth that his story of the transmission of documents to him by Hiss is false.

3. Since a portion of the manuscript was sent to Chambers on March 18th, he must certainly have been out of the Party by that time. But the actual date was even earlier, for further correlation of the information in the Oxford University Press and the Pearn, Pollinger & Higham files shows that the March 18th shipment was the *last*, not the first, batch of manuscript. Chambers's telegram of May 22nd (Exhibit IV-B-22) refers to the "complete translation including extra chapters you sent"; and as the shipping ticket of March 18th (Exhibit IV-B-9) is the only shipping ticket in the file, it must have covered the "extra chapters", and the bulk of the manuscript must have been delivered by hand at some earlier date. That there was such a hand delivery is a natural inference from Chambers's own testimony (R. 265) that he got his translation and an advance * on a personal visit to Willert in New York—a visit which now is shown to have been at *some* time before March 18th.

4. Just how much before March 18th Chambers quit his espionage activities is still not certain from the records. However, the records do show that the London office of the Oxford University Press learned as early as March 3rd that a new translation was being made and on March 4th instigated inquiries as to its progress (Exhibit IV-B-8). While this may not establish that Chambers had actually been retained by that time, it should be recalled that at the second trial one of the Government's own witnesses, Henry Julian Wadleigh, who was a self-confessed source of many of Chambers's documents, placed the date by strong inference at some time before March 11th, the date on which he left for Turkey. When "the time came near" for him to go to Turkey, he tried to notify Chambers that he was going, but could not because before that time he had been instructed "not to deliver any document for the time being" and had no means of getting in touch with Chambers (R. 1191).

The conclusion to be drawn from these papers is necessarily that Chambers's break with the Party, and his cessation of espionage activity, occurred at least no later than the forepart of March. The new evidence, while generally supporting Chambers's story of his leaving the Party and getting a translation, definitely contradicts it in the vital features which would implicate Hiss. Even if everything that Chambers at the second trial said had happened in this respect did in fact happen, it did not happen *when* he said it did. It happened earlier—enough earlier to contradict and vitiate his testimony as to the source of the Baltimore Documents. And if Chambers was wrong as to the source of the Baltimore Documents, the Government had no case, and the jury could not fail to acquit.

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* The advance would appear to have been $100, for (a) London was to pay one-half the translation fee (Exhibit IV-B-1); (b) London's half was to amount to $350 (Exhibit IV-B-10); and (c) Willert completed the first half of his payment to Chambers with a check for $250 (Exhibit IV-B-11a).

V

Lee Pressman

One of the major difficulties facing the defense throughout the trial was Chambers's tendency to bring in—as people involved with him in his Communist conspiracy which he claimed also involved Alger Hiss—people who were either dead or unavailable to deny his story. Thus, Chambers and Hiss were supposed to have met originally at a meeting engineered by two Communist Party officials, Harold Ware and J. Peters. At the time of trial Ware was dead, and Peters had flown from the United States (see R. 357-8). The alleged trip to Peterboro, New Hampshire, was mentioned only after the death of Harry Dexter White, the person whom Chambers claimed to have made the trip to visit. Instances could be multiplied.

In one centrally important phase of his tale, Chambers did use the names of persons who were alive and at least physically available. That was his story of the Communist group to which Hiss allegedly belonged. In the varying versions of this story Chambers nevertheless maintained consistency in his assertion that other members of the group included Nathan Witt, Charles Kramer, John Abt and Lee Pressman (see H. Hearings, 566, 569; *cf.* Raymond Murphy notes, Government's Exhibit 17). It might reasonably have been supposed that one or more of these persons might have been able to deny Chambers's story, at least so far as Alger Hiss was concerned; but each of them rendered himself as a practical matter unavailable by declining to testify in response to Chambers's charges on the ground of self-incrimination (see H. Hearings, 1015, 1033).

Since the conclusion of the trial, however, one of these men, Lee Pressman, has withdrawn his claim of privilege, and has testified before the House Committee on Un-American Activities regarding the Communist group described by Chambers. He has stated publicly and under oath that such a group did exist, that he was a member of it, that it also included Abt, Kramer and Witt, and that Alger Hiss was not a member of it during the period of his own participation, namely, about a year, from 1934 to the latter part of 1935. This period was vital to Chambers's story, for it embraced the period of Hiss's service with the Senate Committee Investigating the Munitions Industry (the so-called Nye Committee), during which Chambers claimed that Hiss first began to turn over to him confidential State Department documents which he had obtained in his official capacity, and it also embraced the period of Chambers's stay at the 28th Street apartment. I quote relevant portions of Mr. Pressman's testimony before the House Committee on August 28, 1950 (Hearings Regarding Communism in the United States Government—Part 2, Committee on Un-American Activities, House of Representatives, Eighty-first Congress, Second Session):

> In my desire to see the destruction of Hitlerism and an improvement in economic conditions here at home, I joined a Communist group in Washington, D. C., about 1934. My participation in such group extended for about a year, to the best of my recollection. I recall that about the latter part of 1935—the precise date I cannot recall, but it is a matter of public record—I left the Government service and left Washington to reenter the private practice of law in New York City. And at that time I discontinued any further participation in the group from that date until the present (p. 2845).

* * * * * *

Now, I believe it of interest to comment that I have no knowledge regarding the political beliefs or affiliations of Alger Hiss. And when I say I have no knowledge, I am not endeavoring to quibble with this committee. I appear here, as I necessarily must, as a lawyer. I am a lawyer. When one asks me for knowledge, knowledge to my mind is based on fact, and I have no facts. And bear in mind, sir, that as an attorney, to be asked to comment on a case now pending in court is a very unusual experience for an attorney, because anything I say undoubtedly may have an impact one way or another on that case, and for that reason I am trying to be very, very precise. I do know, and I can state as a matter of knowledge, that for the period of my participation in that group, which is the only basis on which I can say I have knowledge, Alger Hiss was not a member of the group.

Now, those two statements of mine are based on knowledge, which embraces facts within my possession. I do not believe that this committee would want me to hazard conjectural surmise. That is not my function. You want from me, I assume, facts and nothing but facts (p. 2845).

* * * * * *

Mr. Tavenner. What were the circumstances under which you united with the Communist Party? That is, who recruited you into the party and all other circumstances connected with it?

Mr. Pressman. The circumstances are very simple. I was asked to join by a man named Harold Ware. For the reasons which I have already indicated, I assented, and I joined with the group which had, in addition to myself, three other persons, all of whom at that time were in the Department of Agriculture (p. 2850).

* * * * * *

Mr. Case. Were there other Government employees who were members of your group?

Mr. Pressman. No, sir. I have stated there were only four.

Mr. Case. You have made a distinction between those who were employees of the Department of Agriculture and other Government employees.

Mr. Pressman. No. I have said there were four, only four, no more, no less (p. 2854).

This Communist group was the core of Chambers's admitted conspiracy to infiltrate the Government in the interests of the Soviets. Evidence from a self-confessed member of the group that Alger Hiss, the defendant here, was not a member of it would have been deeply damaging to the Government's case; and now that that evidence has become available a new trial should be had at which Mr. Pressman can be subpoenaed and given an opportunity to reiterate his testimony before a jury.

CONCLUSION

This motion is made with full appreciation of the fact that new trials are not lightly granted, and that a showing must be made that upon a new trial the newly discovered evidence, if placed before the jury together with the old, would more than probably produce an acquittal.

I believe that such a showing will be made on this motion. I believe that the new evidence now offered hits so deeply at the vital aspects of the Government's case as it was presented to the jury that if it can be presented at a new trial it cannot fail to produce a different verdict.

All the evidence hereby presented is newly discovered since the second trial, and I assure the Court that it has been gathered and

presented with the greatest diligence of which I and my associates have been capable. I have referred at length under Point II to the disheartening difficulties with which we have been faced in our search for the history of the typewriter. Furthermore, for approximately the whole of the first year of the two year period since the judgment and sentence the energies of counsel, including myself, were unavoidably in large part devoted to the preparation of the record and briefs on appeal and in certiorari proceedings in the Supreme Court. The investigation has had to be pursued in many parts of the United States and in foreign countries, and many lines of inquiry which looked and still look promising have had to be deferred temporarily, or even abandoned, because of lack of funds and personnel. While it is true that certain portions of the new evidence—such as the evidence under Point III, relating to Edith Murray—could have been presented earlier, I concluded that it would be an imposition on the Court to make successive motions on different points, and that the only proper course would be to defer making any motion until we were in a position to present to the Court the best possible comprehensive showing of the falsity of Chambers's story and the inadequacy of his alleged corroboration to substantiate his story under the rule of the *Weiler* case.

I believe that such a showing is made. Any fair reading of the record shows beyond question that Chambers's testimony was riddled with inconsistencies and improbabilities, and it is inconceivable that the jury would have believed it, or convicted on either count, if it had not been for the apparent corroboration furnished by the Baltimore Documents, and by the testimony of Edith Murray supporting the Chamberses' story of social relations between the two families. These spurious corroborations we are now for the first time in a position to challenge successfully; and when we can also show by documentary evidence that the event which Chambers himself said marked the end of his Party activity and his alleged conspiracy with Hiss had occurred at least weeks before the date of many of the Baltimore Documents he claimed to have received from Hiss, I believe that no jury could possibly feel sufficient confidence in the Government's case to vote for conviction.

Chester T. Lane

Sworn to before me this
24th day of January, 1952.

Margaret L. Burton
Notary Public for the State of New York
Qualified in New York County
No. 31-0515250
Certs. Filed with Co. Clks., Kings and
Rockland and with City Reg's. N. Y. and Kings
Commission Expires March 30, 1953

(Seal)

EXHIBIT I-A

State of New York }
County of New York } ss.:

Martin K. Tytell, of 123 Fulton Street, New York, New York, being duly sworn, deposes and says:

I am a typewriter expert, with many years of specialized experience in the creation of unique typewriters for foreign language and other purposes.

At some time in 1950 I was consulted by Chester T. Lane, attorney for Alger Hiss. He asked me if it would be possible to construct a typewriter whose product would so nearly match the product of another typewriter in type defects, alignment and all other respects that a document expert comparing typed samples from the two machines would be led to believe that they had all been typed on the same machine. I told him that I thought this was entirely possible, particularly if I could have access to the machine which he wanted duplicated. He said he was more interested in finding out whether a duplicate machine could be constructed solely on the basis of samples taken from the machine to be duplicated. I said I believed this could be done, and undertook to try it.

I have constructed a machine which I believe meets Mr. Lane's specifications. Neither I nor any of my associates in the work have had any access whatsoever to the original machine during the course of the experiment.

The duplicate machine has taken longer to construct than I originally expected. This is due in part to the fact that it was many months before a qualified impartial document examiner could be found who was able and willing to examine my results as I went along and check me on my progress.

So far as I know, this is the first time such a machine has ever been made except possibly for forgery or other illegal purposes. With the experience I and my associates have gained through this experiment I am confident that we could now create other duplicates with an even higher degree of fidelity in a fraction of the time which this machine has taken.

Martin K. Tytell

Sworn to before me this
23rd day of January, 1952.

Margaret L. Burton
Notary Public for the State of New York
Qualified in New York County
No. 31-0515250
Certs. Filed with Co. Clks., Kings and
Rockland and with City Reg's. N. Y. and Kings
Commission Expires March 30, 1953

EXHIBIT I-B

State of New York }
County of New York } ss.:

I, Elizabeth McCarthy, of Boston, Suffolk County, Massachusetts, on oath depose and say:

I reside at 16 Porter Street and have an office at 40 Court Street, both in said Boston.

I am a qualified examiner of questioned documents.

I was graduated from Vassar College with a degree of A.B., from Simmons College, and from Portia Law School with a degree of LL.B.

I am an attorney at law.

During the last sixteen years I have testified frequently in state and federal courts in many parts of the country in cases involving questioned handwriting, typewriting, inks, paper, rubber stamps, imprints, et cetera. I have frequently been employed as a document expert by both federal and state prosecuting officials and law enforcement agencies, and pursuant to such employment have examined documents, prepared reports, rendered expert opinions, and presented expert testimony in court on behalf of both federal and state governments. I have lectured at various law schools and before bar associations and banking groups on the subject of document identification, and on the presentation of testimony on the subject. I have qualified as an expert in the examination of disputed typewritten documents in many courts in various jurisdictions and have been consulted by many judges of such courts. I am at present the document expert for the Police Department of the City of Boston and for the Massachusetts State Police. I have had occasion in many cases to make intensive studies of questioned typewriting and to make comparisons with samples taken from other machines.

Heretofore, so far as I am aware, it has been the underlying assumption of all qualified document examiners, including myself, that no two typewriters could ever, merely by accidental coincidence, make identical impressions, and also that it would be as a practical matter impossible to change or adapt any one machine to the extent necessary to enable it to duplicate the product of another machine in all relevant respects. As a consequence it has been the practice of document examiners, however highly qualified, to concentrate their examination upon the presence or absence of a substantial number of identical peculiarities or irregularities in the questioned and known typing, in the belief that if any considerable number of such identical peculiarities or irregularities was found there would be no possibility that even the laws of chance could have produced such peculiarities in two separate machines. This evidently was the basis of the opinion given by the Government's expert, Ramos C. Feehan, in his testimony at the second trial, since he testified solely as to the existence of ten specific identical peculiarities in the type impressions in the two sets of documents. It could not have occurred to Mr. Feehan, any more than it would have occurred to any other qualified document examiner, that even a possibility existed of a machine having been fabricated to such an extent of perfection as to be able to produce as many identical peculiarities of type as appeared in the two sets of documents.

In the earlier part of this year I was consulted by Chester T. Lane, Esquire, attorney, of 70 Pine Street, New York City. He told me he was conducting an experiment to determine whether it would as a practical matter be possible to build a typewriter which would meet the standards of identity accepted by document examiners as grounds for a conclusion that a single machine had been used in two sets of documents. He said he had for a long time been looking for a qualified expert who could assist in the experiment by checking the results but that all the experts he had so far talked to had refused to have any part of it. I said I doubted that such an experiment could in any large measure be successful, but I expressed my willingness to examine the products of his experimental machine as the experiment continued, and to point out the respects in which the attempted duplication had not yet been successful. In undertaking this assignment I had in mind that the profession of document examiners, as well as the public at large, were entitled to learn whether any such experiment could be successfully conducted, since if it could, general knowledge of the fact would be essential as a means of preventing large numbers of forgeries which otherwise might be successfully carried out.

It was agreed that I should confine any examination to samples from the two machines without at any time inspecting the machines themselves, or any duplicates of their type; and my work throughout has been confined to typed samples.

The experiment has now been completed to the greatest extent possible in the time allowed. I am not prepared to say that the duplication btween the two machines is even yet complete to the highest degree of accuracy, and in fact I know that there are still a small number of characters sufficiently dissimilar so that in the light of the careful observation I have had occasion to give to samples from the two machines during the progress of the experiment I should myself find it possible to distinguish between the products of the two machines. Nevertheless, it is my opinion, based upon my long experience in methods of questioned document examination, that the duplication has progressed to such a degree that an expert in the field, however highly qualified, would find it difficult if not impossible to distinguish between samples from the two machines.

I attach samples of the writing from the two machines, which I believe will demonstrate the soundness of this conclusion. I have a key showing which samples were made on which machine, and shall be glad to furnish it to the court should it be desired to check the accuracy of the results of any test to which the Government may choose to subject the samples.

I should add that even if it can be demonstrated that my above conclusion is unfounded, it is my opinion as an expert in the examination of questioned documents that the duplication has progressed to a point where any document examiner not forewarned (as anyone now examining these samples must necessarily be) that a deliberate attempt at duplication of machines had been made, would be deceived into thinking that all the samples were made on a single machine. In particular, the success of the experiment shows that any such testimony as that given by the Government's expert, Mr. Feehan, at the second trial, basing his conclusion of identity of machines on the iden-

tity of only ten characters in the two sets of documents, is absolutely worthless.

ELIZABETH MCCARTHY

Sworn to before me this
22nd day of January, 1952.

MARGARET L. BURTON
Notary Public for the State of New York
Qualified in New York County
No. 31-0515250
Certs. Filed with Co. Clks., Kings and
Rockland and with City Reg's. N. Y. and Kings
Commission Expires March 30, 1953

(Seal)

Exhibit I-B

EXHIBIT I-C

State of New York }
County of New York } ss.:

Evelyn Seltzer Ehrlich, being duly sworn, deposes and says:

My name is Evelyn Seltzer Ehrlich. I live at 417 Beacon Street, Boston. My married name is Mrs. William Ehrlich. I am a graduate of the University of Pennsylvania where I studied architecture and received the degree of Bachelor of Fine Arts in 1929. Excepting for two years during the war, from 1934 until 1951 I was on the staff of the Fogg Museum of Art, Harvard University, as a part time worker. While there, as a member of the Department of Conservation and Research, my special field of activity and investigation was concerned with the technical examination and conservation of prints, drawings, manuscripts and typography. In the course of my work and under the auspices of the Fogg Museum I was engaged from 1940 to 1951 in an intensive investigation concerned with the detection of spurious prints. In this connection I devoted part of my work to the development of visual techniques of presentation to illustrate the pertinent technical details in the detection of deceptive imprints and typography. I have summarized this print research project in a book entitled "The Detection of Spurious Prints" which is now in manuscript form in the hands of Harvard University.

An article which I wrote and illustrated describing the use of photomicrography as a research tool for the detection of deceptive rare book facsimiles was published in the Harvard Library Bulletin, Vol. IV, No. 1, Winter 1950, and was recently reprinted in the Journal of the National Archives of India, Vol. IV, No. 1.

In December, 1951, I was consulted by Chester T. Lane, attorney for Alger Hiss, with respect to an experiment he said he was conducting in connection with the Hiss case. He told me that he was trying to find out whether it would have been possible for Whittaker Chambers to have had a facsimile typewriter made which would write so nearly like the typwriter which Mr. Hiss had owned that experts looking at samples written on it would be misled into thinking that it was the Hiss typewriter that had been used. He said he had in his possession the Woodstock machine that was supposed to have belonged to the Hisses, and that he was having another machine made which he hoped would be able to duplicate the typing from the so-called Hiss machine. He told me that the work on the machine was not yet finished, but that his experts working on it felt that it was quite close to being a perfect duplication, and that he needed a fresh eye to help him make sure whether he was on the right track. He asked me whether I would be willing to examine specimens from the two machines to see whether they could be told apart.

I agreed to do this and on December 14, 1951, Mr. Lane sent me some samples typed on the so-called Hiss machine and the facsimile machine which had been altered to imitate it. These samples were not marked or separated in any way to indicate which machine had been used to type any individual document. When I examined them I was struck by the extraordinary degree of similarity which had been achieved in the typeface of these two machines. However, when I examined the samples more carefully under a microscope (magnification 30X) I found a few consistent details of difference which appeared

to make it possible to separate these samples into two groups. Apart from these few microscopic details I found that an amazingly faithful reproduction of the so-called Hiss machine had been fabricated in almost every respect.

I made a similar examination of further samples which Mr. Lane sent to me on December 31, 1951, and reached the same conclusion. I separated the samples into two groups and informed Mr. Lane of my results. Again I felt that I had successfully differentiated the typing of the two machines, but only on the basis of a few specific characteristics. Except for these subtle details, I found that the microscopic variations on one machine had been duplicated on the other so faithfully that I might not have believed it possible if I had not been informed that two machines were involved.

After these preliminary experiments Mr. Lane informed me which specimens were typed by one machine and which from the other (confirming the conclusions I had already reached), and on January 7, 1952, provided me with some identified samples from both machines which were typed by the same typist using the same ribbons and a similar variation of pressures for both sets of samples. I thereupon took twelve characters appearing in each set and made eight to twelve photomicrographs (7.6X) of each, using a different imprint for each exposure of the same character, some made by one machine and some by the other.

These photomicrographs (7.6X), which are included herewith as Series A, were made with a Leitz Ultropak microscope, a fluorescent microscope table lamp, and a Land Polaroid camera. Each of the series of letters included was photographed under identical conditions of magnification, illumination, and photographic processes and no further enlargement was made of these magnified details. Orthochromatic Polaroid Film No. 36 was used. The precision controls of the automatic printing and developing processes in the Land Polaroid camera and film allowed for a series of similar letters from various documents to be photographed under conditions as nearly identical as is possible. By taking the photography of these details through a microscope it was possible to obtain a magnified image of each letter without the usual kind of distortion which is inherent in most types of photographic enlarging and copying processes.

Duplicate prints of Series A were also copied with a Polaroid camera and Polaroid film. This was done without any further enlargement of the photomicrograph, and made it possible for all duplicate prints to be made with the same precision controls of printing and developing as the originals. However, it will be noted that the duplicates (as in all photographs of photographs) do not show some of the fine details which can be seen on the original photomicrographs.

The original set of these photomicrographs of similar characters from both machines is attached to the original of this affidavit and a set of the duplicates is attached to an executed carbon hereof.

I have not indicated which machine was used to type these individual characters in Series A. However, each of the photographs is identified by a number and I have carefully noted the machine used for its typing and the document from which the detail was made in a code book which is in my possession.

After this experiment was made Mr. Lane suggested that I read the testimony given by the Government's expert, Mr. Ramos C. Feehan, in the second trial in the Hiss case, and familiarize myself with the

criteria which he had applied in demonstrating to the jury his conclusion that the Baltimore Documents and the Hiss standards had been typed on the same machine. I have done so, and it is my opinion that any document expert, acting with reasonable care, who applied those same criteria to the samples sent me by Mr. Lane would reach the conclusion that a single machine had been used to type all of them. Mr. Feehan took ten separate characters appearing both in the Baltimore Documents and in the Hiss standards and pointed out similar deviations in the two groups of documents. On this evidence he concluded that a single machine had been used. It is my opinion that Mr. Lane's two machines contain many more similar deviations than the ten which Mr. Feehan described to justify his testimony at the trial. The twelve sets of individual characters from these two machines in Series A are used to illustrate a few of the similar deviations. It would be possible to provide a similar series for almost every character on the machines.

As a second problem, Mr. Lane asked me to make a study of specimens from the so-called Hiss machine and to compare them, if possible, with some of the photocopies of the Baltimore Documents and also the photocopies of the Hiss documents which were used as Government standards. For this purpose I was given photocopies of the Baltimore Documents dated Berlin, Feb. 12, 1938, Paris, Feb. 16, 1938, and Paris, Feb. 16, 1938. I was also given photocopies of the four Hiss documents which were used as Government standards.

Certain kinds of differences and similarities in a questioned document can be deduced from a photocopy of the document used as a standard, i.e., alignment, slant, spacing, and position of the letter. However, I believe that a final judgment about similar deviations and inconsistent differences in typography can only be reliable if it is based on a comparison of the questioned document with the original copy of the material used as a standard. I have not had access to the original copies of the documents mentioned above, but making allowances for the distortion of the photocopying process which was used for the Government standard 46-B, I observed certain differences in some of the letters in this document and the samples typed by the so-called Hiss machine in Mr. Lane's possession. I found that the photocopies of the other Hiss standards and the Baltimore Documents which I had examined were so distorted by the copying process that they were too inaccurate to work from.

I have made a careful comparison of the photocopy of the Hiss standard (Government Exhibit 46-B) and specimens of typing from the so-called Hiss machine in Mr. Lane's possession. On the basis of this comparison, it is my opinion that it is entirely possible that the so-called Hiss machine now in Mr. Lane's possession is not the machine which was used to type the Hiss standard. I base this conclusion on my observation of certain differences which might not be due to age, normal wear, or personal typing idiosyncracies. To illustrate these differences I have made photomicrographs in the same manner as Series A, but at higher magnifications (15X and 17X). These are attached as Series B-1 through B-7.

I note, for example, the following differences:

y. There is an interruption in the typeface of the descender of the small letter "y" in all of the imprints of this letter by the so-called Hiss machine. There is no apparent break in the

descender of this letter "y" type in the imprints of this letter seen in the photocopy of the Hiss standard.

See photomicrographs, Series B-1.

p. There is a complete break in the descender of the main element of the small letter "p" in about 90% of the times which this letter appears in the samples typed by the so-called Hiss machine. The photocopies of the Hiss document give no indication of this particular deterioration in the small letter "p".

See photomicrographs, Series B-2.

m. In almost all of the imprints of the letter "m" in the photocopy of the Hiss document the highest part of the loops appears to be farther to the right and slightly different in shape than the more rounded loops of the small letter "m" in the samples typed by the so-called Hiss machine.

See photomicrographs, Series B-3.

u. The lower right seriph of the small letter "u" appears to be horizontal in almost a third of the times which this letter appears in the photocopy of the Hiss document, while it appears to be consistently slanted downward at an angle in the imprints of this letter made by the so-called Hiss machine. The attachment of this lower right seriph to the main element of the letter appears abnormal in the so-called Hiss machine. The printing surface of this seriph seems to be set on a lower level than the typeface of the rest of the letter. The upper seriphs of this letter also often appear slanted at a different angle in the imprints of this letter in the Hiss document from those made by the so-called Hiss machine.

See photomicrographs, Series B-4.

d. The seriph at the foot of the terminal element of the small letter "d" is manifest horizontally, apparently at full length, in about a third of the imprints of this letter in the Hiss document. This seriph at the foot of the right side of the letter "d" is manifest only occasionally, and then very short in length, in the imprints of this letter found in the samples typed by the so-called Hiss machine.

See photomicrographs, Series B-5.

t. The width of the arc in the terminal curve of the small letter "t" appears wider in most of the imprints of this letter in the photocopies of the Hiss document than in the imprints of this letter made by the so-called Hiss machine.

See photomicrographs, Series B-6.

n. The seriph on the right foot of the letter "n" appears to be horizontal in the imprints of this letter in the photocopy of the Hiss document. In the imprints of this letter made by the so-called Hiss machine this right seriph is almost always slanted at a downward angle.

See photomicrographs, Series B-7.

Exhibit I-C.

However, for the reasons already stated, my observations could be more complete if I were in a position to examine the original documents. I should add that in examining the similar deviations mentioned by Mr. Feehan on the photocopy of the Hiss document, which was the only one of those furnished to me that was a clear enough photocopy for me to make any use of, I observed that the deviations described for some of Mr. Feehan's chosen examples were not consistent throughout this standard. Two of the deviations were not consistent for over thirty per cent of the times the letter was used so far as was apparent from this document.

EVELYN SELTZER EHRLICH

Sworn to before me this
24th day of January, 1952.

MARGARET L. BURTON
Notary Public for the State of New York
Qualified in New York County
No. 31-0515250
Certs. Filed with Co. Clks., Kings and
Rockland and with City Reg's. N. Y. and Kings
Commission Expires March 30, 1953

Exhibit I-C.

EXHIBIT II-A

Letterhead of

R. C. Allen Business Machines, Inc.
Typewriter Division
Woodstock, Ill.

November 17, 1950

Mr. Robert C. Goldblatt
Star Typewriter Company
189 West Madison Street
Chicago 2, Illinois

Dear Mr. Goldblatt:

We have today received your letter of November 16th requesting an affidavit giving the dates of manufacture of Woodstock typewriter No. 222,402 and also Woodstock typewriter No. 230,000.

Our records are not complete enough to give you exact dates of manufacture but from the records we do have, typewriter No. 222,402 was built in March or April, 1929 and serial No. 230,000 was built in April or May 1929.

We hope that the information we are able to give you will be of help to you.

Very truly yours,

J. T. Carlson
J. T. Carlson—Vice President
In Charge of Manufacturing

JTC;ieg

AFFIDAVIT

This is to certify that the information contained in the above letter is, to the best of my knowledge, true and correct.

J. T. Carlson

Subscribed and sworn to
before me this 17th day
of November, 1950

Irene E. Gorenflo
Notary Public

(Notarial Seal)

EXHIBIT II-B

State of Illinois }
McHenry County } ss.:

Joseph Schmitt, being duly sworn on oath deposes and says:

1. I am employed by R. C. Allen Business Machines, Inc., Typewriter Division, as Factory Manager in charge of the factory of that company located at Woodstock, Illinois. Said factory was formerly owned by the Woodstock Typewriter Company and was used for the manufacture of all Woodstock typewriters produced by that company. I have been employed in this factory by the Woodstock Typewriter Company and successor owners of said factory since prior to 1920 and continuously to the present time.

2. I have custody and control at the present time of all records of the Woodstock Typewriter Company that are on the premises of the factory referred to above. Certain of the production records of the Woodstock Typewriter Company for the year 1929 are still in existence and in my custody and control.

3. It was the usual practice of the Woodstock Typewriter Company during the year 1929 to assign serial numbers to all typewriters manufactured by that company at the factory referred to above. Such serial numbers were normally consecutive although at times a number or group of numbers may have been skipped. No one serial number was ever used for more than one typewriter.

4. According to the records of the Woodstock Typewriter Company the typewriters manufactured in said factory during the calendar year 1929 were assigned serial numbers starting approximately with the number 204,500 and ending approximately with the number 246,500. Serial number 220,000 was assigned to a typewriter manufactured in March, 1929, when a new style action model was brought out by the Woodstock Typewriter Company.

5. The following table shows the actual number of Woodstock typewriters that were manufactured at said factory during the respective months of 1929 that are indicated:

Jan	2058
Feb	2009
Mar	1356
Apr	2374
May	1772
Jun	2345
July	2911
Aug	3039
Sept	2755
Oct	3166
Nov	2316
Dec	2447
Total	28548

6. Since serial number 220,000 was used in March 1929 it seems probable that many numbers were skipped between the serial numbers 204,500 and 220,000. Such skipping of numbers may have occurred at the time of the change-over to the new style action model typewriter.

7. On the basis of the use of serial number 220,000 in March, 1929 and the monthly production statistics set forth in paragraph 5 above, it appears that Woodstock typewriter serial number 230,099 was manufactured during the latter part of July or in August 1929. The date of the manufacture of said typewriter serial number 230,099 cannot be determined more exactly for the principal reason that it is not possible to determine from the available records the day of the month of March 1929 on which typewriter number 220,000 was manufactured. In determining the time of the manufacture of typewriter serial number 230,099 I have assumed that there was a relatively small amount of skipping of serial numbers with respect to all typewriters manufactured in 1929 commencing with typewriter serial number 220,000. This conclusion seems to be required by the actual production statistics set forth in paragraph 5 above as compared with the serial number 220,000 used in March 1929 and the serial number 246,500 which was the approximate number of the last typewriter manufactured in 1929.

.....

Sworn to before me this
day of November, 1950

Notary Public

EXHIBIT II-C

Letterhead of

R. C. Allen Business Machines, Inc.
Typewriter Division
Woodstock, Ill.

December 6, 1951

Mr. Donald Doud
Tyrrell & Doud
312 E. Wisconsin Ave.
Milwaukee 2, Wisconsin

Dear Mr. Doud:

I have your letter of December 1st and I do not believe it is necessary for you to visit our plant as we have given this information to many people in the past and there is nothing more that we can say other than that the machine in question was built approximately in July or August 1929.

I am sorry but we do not feel we should spend any more time on this case.

Very truly yours,

J. Schmitt
J. Schmitt—Factory Manager
Typewriter Division

JS;IEG

EXHIBIT II-D

Memorandum Prepared by Chester T. Lane
Re: Dating Woodstock #230099

Information from the Woodstock officials, as reflected in the draft affidavit based upon their records (Exhibit II-B), indicates the following approximate manufacture dates:

204,500	January 1, 1929
220,000	March, 1929
246,500	January 1, 1930

From these serial numbers, it would appear that 42,000 machines were manufactured in 1929.

However, the monthly production figures were as follows:

January	2058
February	2009
March	1356
April	2374
May	1772
June	2345
July	2911
August	3039
September	2755
October	3166
November	2316
December	2447
Total	28548

Thus it appears, taking the difference between 42,000 serial numbers and 28,548 machines actually manufactured, that some time in the course of the year 13,452 serial numbers were skipped.

The production figures indicate that 11,914 machines were manufactured during the first six months of 1929. Disregarding the serial numbers skipped, this would mean that the last machine manufactured in June, 1929, would have borne the serial number 216,414. If it be assumed that all the numbers skipped were skipped during the first six months (possibly at the time of the changeover in March) the serial number of the last machine manufactured in June would be 229,866. Thus, machine #230099 would not have been manufactured before the first week in July. Taking an average rate of manufacture for July of 100 machines a day, it would appear that a serial number 233 above No. 229,866 would have been manufactured on July 3, 1929. July 4th that year fell on a Thursday, and the 7th was a Sunday. To believe that Fansler had #230099 in use in Philadelphia on July 8th, therefore, requires believing that a machine was packed, shipped, received by a distributor in Philadelphia, unpacked, sold, and put into use by the purchaser all in a period of five days which included the 4th of July and a weekend. Incidentally, it is known that in 1929 air mail freight was not yet in existence.

It may be added that the facts cannot possibly justify the assumption that all 13,452 of the skipped numbers were skipped at the time of the changeover. The serial number at the beginning of January was 204,500. Adding the total production for January, February, and March would bring the serial number to 209,923. Therefore, if number 220,000 is to have been manufactured in March, even on the 31st, only 10,077 serial numbers can have been skipped at that time, leaving 3,375 to be skipped at some later date. Unless they were all skipped between March 31 and June 30, the date July 3rd is too early for possible manufacture of #230099.

EXHIBIT II-E

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, against ALGER HISS, Defendant.	Criminal No. C 128-402

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

KENNETH SIMON, being duly sworn, deposes and says:

1. I reside at 177 Nagle Avenue, New York, N. Y., and am one of the attorneys for the above named defendant.

2. In the course of various investigations instituted by counsel for Alger Hiss it was decided to attempt to fix the date of the purchase of a Woodstock typewriter by Mr. Thomas Fansler.

3. Accordingly, on October 23, 1950, accompanied by Mr. Manice deF. Lockwood, III, I interviewed Mr. O. J. Carow at his home at 5318 Locust Street, Philadelphia, Pa. Mr. Carow is at present employed by the Remington Rand Co. as a salesman in its Philadelphia office. Mr. Carow had been branch manager of the Woodstock Typewriter Company Sales Agency in Philadelphia from before 1927 to the Sales Agency's discontinuance in 1938.

4. Mr. Carow informed us that on the Sales Agency's closing he sent to the Woodstock Company's main office in Woodstock, Illinois, all of the Sales Agency's records, keeping only some personal notations as to the dates when typewriters, identified by their serial numbers, were sold. He stated that his records would not identify the purchaser of any typewriter.

5. I asked Mr. Carow if he would check his notes and tell me whether a Woodstock typewriter numbered 230099 had been sold in Philadephia, and if so approximately when it was sold. Mr. Carow declined to do so on the ground that the job was extremely time-consuming, which fact he had discovered when, "approximately a year and a half or two years ago", the FBI had requested him in connection with the Hiss case to check his records to ascertain the date of sale of a machine from a serial number they gave him. He said that he had reported to the FBI that he had not been able to find the exact date of sale of the machine about which they asked, as he found no record of the sale of that machine, but judging from the records he had of dates of sale of subsequent and prior numbered machines, he told the FBI that the machine they had inquired about would have been sold in Philadelphia late in 1927, with a six months margin of error. Having been independently informed that the salesman of Mr. Fansler's Woodstock was one Thomas Grady, now deceased, I asked Mr. Carow if he knew anything of Grady. He said that Grady had

been one of his employees, and that when the FBI had visited him they had discussed with him Grady's whereabouts.

6. On November 19, 1950, Mr. Lockwood and I saw Mr. Carow in his home in Philadelphia and again requested that he check his records to ascertain whether they would show the date of sale of Woodstock #230099. He said that he would do so in his spare time provided he was paid for his efforts, to which we agreed.

7. On December 12, 1950, Mr. Lockwood and I phoned Mr. Carow and found that he had not proceeded to check his records as he had forgotten the serial number that we were interested in. We told him it was #230099 and he said that the machine the FBI had asked him about had a different number. Mr. Carow indicated that his records would contain the name of the purchaser. He said he would check his records to determine when and to whom typewriter #230099 was sold.

8. On December 21, 1950, I phoned Mr. Carow. He said he had been through all but one box of his records and had not been able to find any record of machine #230099 or enough records of any sort upon which to base an approximation when a machine #230099 would have been sold in Philadelphia. Mr. Carow said some of his records had been burnt since he last looked through them for the FBI. I asked what kind of records he had and he said "mostly shipping tickets", containing the number of the machine, the name of the purchaser and the date of purchase. Mr. Carow said he would look through the remaining box of records and asked me to call him back on December 26th.

9. On December 27, 1950, I phoned Mr. Carow. He said he had looked through his last box of records and could find nothing that would help date the sale of Woodstock #230099. I asked if he had come across any "shipping tickets" concerning typewriters sold in or about July, 1929. Mr. Carow said he didn't have any "shipping tickets" at all, that all his records contained was old correspondence, pictures, banquet menus and things of that nature. He said that when the FBI had worked with him in his garage and basement two years ago in looking through the records they had taken all the "shipping tickets" with them, telling Mr. Carow that "he knew where they were and he could get them any time he needed them." I asked Mr. Carow what he thought would be adequate compensation for his work in connection with this search, and he said that "a suit of clothes" would be adequate.

10. On January 18, 1951, I again interviewed Mr. Carow at his home in Philadelphia. I told him that in our earlier talks I had gotten the impression that he was looking through "shipping tickets" in order to determine for us the date of sale of Woodstock #230099, but that my notes of our last conversation indicated that he had said he didn't have any "shipping tickets". He said that I was confused; that he had not had any "shipping tickets" at any time I had talked to him. He added that "shipping tickets" was really an incorrect name for what he had had; that they were really "delivery tickets" which showed the number of the machine, the date the machine was delivered to the purchaser, and the name of the purchaser. He said that what had happened was that, as he had told me before, he had gone through

all his "delivery tickets" a year and a half to two years ago, at which time he was looking for the date of sale of a Woodstock machine for the FBI. As a result of that search he had arrived at the date November, 1927, and had given this date to the FBI along with all of the material on which he had based his calculation of the date, and then had either burnt or thrown out most of the "delivery tickets" and other matter that did not relate to the machine the FBI was interested in. When in November, 1950, he had agreed to look through his records for us to try to establish the date of sale of Woodstock #230099, he had done so because he understood from us that "two machines" were involved. He had looked through whatever material was left, which consisted of correspondence, a few delivery tickets, old banquet pictures, sales promotion material, contest letters, sales meeting pictures and literature, and some of his personal sales books, but had found that all of the delivery tickets that he still had were for machines numbered with either a much lower or higher number than 230099. He said that he could not arrive at any approximation of the date of sale of #230099 from the material that he still had, but that the search had involved numerous evenings of work and one entire weekend.

I asked him if the FBI had physically helped him in the search "a year and a half to two years ago" and he said "No." But, he added, since Mr. Lockwood's and my first visit to him in October of 1950, he had been visited by an FBI agent whose name he didn't remember, and had also received a telephone call from Mr. Kirkland of the FBI, who was the agent who had first contacted him about two years ago. He said they had asked him what it was that Mr. Lockwood and I were trying to find out and what he had told us. Mr. Carow said he told the FBI that he had told us that the FBI had all the material.

I asked him if the FBI had ever returned to him the material that he had given to them, and he said "No", but that it was possible that they had returned it during the day when he wasn't home and had given it to his wife. He called Mrs. Carow into the room and I asked her if she had ever received any material from the FBI. She said "No." I asked Mr. Carow if he was sure that the machine the FBI asked him to establish the date of sale on had a number different from #230099. He said he was not sure; that he didn't remember, and that he did not remember the number of the machine the FBI was interested in. I asked Mrs. Carow if she remembered what number the FBI had inquired about and she said "No." I asked Mr. Carow if 230099 "rings a bell" in connection with the FBI number. He said "No"; that he was pretty sure it was not the same number, but he was not positive. He asked me if I knew what number the FBI had asked about, and I said "No."

I asked Mr. Carow if, when he was branch manager of the Woodstock Sales Agency in Philadelphia, he had kept a supply of new machines on hand. He said that he usually kept between 200 and 300 new machines on hand.

I mentioned that I wished to compensate him for his time spent in searching through his records. I said that since I couldn't deliver him "a suit of clothes", which he had earlier indicated would be in his opinion reasonable compensation, I wondered whether a check would be all right with him. He said "Yes", and I gave him a check for $50. At his request I wrote on the check "for services rendered". He said that he "didn't want to be subpoenaed" because if subpoenaed he "wouldn't be of any help" to us because he "didn't know anything".

Exhibit II-E

I asked him whether he would be willing to sign an affidavit, and he said "No".

KENNETH SIMON

Sworn to before me this
26th day of January, 1951.

MARGARET L. BURTON

MARGARET L. BURTON
Notary Public for the State of New York
Qualified in New York County
No. 31-0515250
Certs. Filed with Co. Clks., Kings and
Rockland and with City Reg's. N. Y. and Kings
Commission Expires March 30, 1951

(Notarial Seal)

EXHIBIT II-F

Letterhead of

TYRRELL & DOUD
312 E. Wisconsin Ave.
Milwaukee 2, Wisconsin

November 6, 1951.

Mr. Chester Lane, Attorney-at-Law
Beer, Richards, Lane & Haller
70 Pine St.
New York 5, N. Y.

Dear Mr. Lane:

You have submitted to this office for examination the following described documents, consisting of letters sent by Fansler and Martin, General Agents of the Northwestern Mutual Life Insurance Company to the home office. These letters are listed in date sequence.

(1) Two-page letter to Harry L. Martin, dated July 23, 1927, unsigned.

(2) Two-page letter to Charles H. Parsons, dated Nov. 4, 1927, signed Harry L. Martin.

(3) Letter to Mr. R. E. Perry, dated Dec. 17, 1928, signed H. L. Martin.

(4) Letter to Mr. R. E. Perry, dated Jan. 14, 1929, signed H. L. Martin.

(5) Letter to Mr. W. Ray Chapman, dated June 17, 1929, signed H. L. Martin.

(6) Photostatic copy of letter to Mr. E. D. Jones, dated June 29, 1929, signed H. L. Martin.

(7) Photostatic copy of letter to Mr. E. D. Jones, dated July 8, 1929, signed H. L. Martin.

(8) Photostatic copy of letter to H. R. Ricker, dated August 21, 1929, signed H. L. Martin.

(9) Letter to Mr. Percy H. Evans, dated August 28, 1929, signed H. L. Martin.

(10) Two-page letter to Doctor J. W. Fisher, dated Feb. 3, 1930, signed Thomas L. Fansler.

(11) Letter to E. G. Fassel, dated Feb. 5, 1930, signed H. L. Martin.

(12) Letter to E. G. Fassel, dated Feb. 14, 1930, signed H. L. Martin.

In conjunction with the above group of Northwestern Mutual Life Insurance documents, you have also submitted a photostatic copy of a letter sent by the Fansler-Martin office to the Rose Hill Cemetery Co., dated Nov. 4, 1929, signed Thomas L. Fansler.

For comparison with the typewriting on the above described documents, which will hereafter be referred to as the Northwestern Life documents, you have submitted ten photostatic copies of the so-called Baltimore Letters, the ones presented bearing in the upper right hand corner, the numbers 5, 6, 7, 9, 33, 34, 35, 36, 37, 38, 39, and 40.

A third set of documents which in our understanding are the standard or admitted specimens from the machine used by Alger Hiss or his family, are described as follows:

(1) Letter to Mr. Walter L. Tibbets, dated Jan. 30, 1933, unsigned, bearing the exhibit No. Defendant's TT.

(2) Carbon copy of letter to Mr. Walter G. Schelker, dated Feb. 17, 1933, unsigned, bearing Defendant's Exhibit No. SS.

(3) Photostatic copy of three-page document headed "Description of Personal Characteristics of Timothy Hobson" dated Sept. 9, 1936, unsigned.

(4) Photostatic copy of three-page document headed "President's Report for the Year 1936-1937", unsigned, bearing Exhibit No. Gov. 22.

(5) Photostatic copy of letter to W. M. Hillegeist, dated May 25, 1937, signed "Priscille Fansler Hiss."

(6) Photostatic copy of a letter and envelope addressed to "Dear Miss Hellings" dated 6-11-1931, signed Daisy Fansler, bearing Gov. Exhibit No. 21.

The purpose of this examination and comparison was (1) to determine whether or not in our opinion the twelve Northwestern Life documents of the date period, July 23, 1927 to Feb. 14, 1930, were all written on the same machine and (2) whether or not the typewriting on any of the Northwestern Life documents agreed in identifying characteristics with the "Baltimore Letters" or with the specimens of typewriting admitted to have originated from the Alger Hiss typewriter.

Exhibit II-F

(1) In our opinion the Northwestern Life documents dated July 23, 1927, Nov. 4, 1927, Dec. 17, 1928, Jan. 14, 1929, June 17, 1929 and June 29, 1929 were written on a different and earlier model Woodstock than the subsequently dated Northwestern Life documents beginning with the date July 8, 1929. This evidence would tend to indicate that the Fansler-Martin office acquired a second Woodstock machine between the period of June 29, 1929 and July 8, 1929. The absence of any specimens of the earlier type face style in documents dated after July 8, 1929 would suggest that upon the purchase of the new typewriter, the earlier typewriter was disposed of, or at least it was not used extensively after that time.

(2) The Baltimore Letters and the specimens admittedly written on the Hiss machine agree in typeface pattern with the Northwestern Life Insurance documents dated July 8, 1929 and later. They do not agree with the Northwestern Life Insurance documents dated June 29, 1929 and earlier.

A comparison of the individual typeface characteristics in the Northwestern Life Insurance typewritings dated July 8, 1929 and after, with the Baltimore Letters and Standard Hiss specimens, shows a tendency, in the 1929-1930 Northwestern Life Insurance specimens toward the development of typeface defects that later became so highly identifying in the 1933 and 1935 specimens and the Baltimore Letters. For instance, in 1929, the Northwestern Life documents were typed on a machine that was apparently quite new and had not as yet developed many defective characters. However, even in those early days, such defects as the "u" with the bent right serif, the "o", printing heavier on the right, the "a" printing heavier on the bottom and the "i" printing below the baseline, were manifest. In 1930, the "d" became defective at the lower right serif and in 1931 the "e" appears to have been damaged on the lower right extension. The extensive scar on the right side of the lower loop in the "g" appears to have occurred between 1931, the date of the standard to Miss Hellings, and 1933, the date of the letter addressed to Walter L. Tibbetts. This scar is found in all subsequently dated documents. I can find no evidence to show that these early Northwestern Life specimens from July 8, 1929 to Feb. 14, 1930 *could not* have been written on the same typewriter used for the Baltimore Letters and the Standard Hiss specimens.

Information gathered from our typewriting files in regard to the date of manufacture of the Woodstock typewriter used for the Baltimore Letters, the admitted Hiss specimens and the July 8, 1929 and subsequent Northwestern Life specimens, is in accordance with that reported by the other document experts. Specimens of typewriting from our files dated in 1926, 1927 and 1928 show complete agreement in typeface style with the Northwestern documents dated July 8, 1929 and later, the Baltimore letters and the Standard Hiss specimens. In the early days, Woodstock did not keep an accurate record of typeface changes. However, incomplete information made available by that company would indicate that this model typewriter was used from 1926, when the multigraph style type was discontinued, until some time the latter part of 1928 or early in 1929, when the "6" was changed to incorporate a more nearly round lower loop. In 1938 the entire keyboard font was again changed in major proportions.

Exhibit II-F

Included as a part of this report is a typewriting comparison chart showing in the left column, words and figures cut from photographs of the Northwestern Life Insurance documents dated from July 23, 1927 to Feb. 14, 1930. In the center column, under the caption, "Baltimore Letters," are characters cut from photographs of the subversive documents. In the right column under caption, "Alger Hiss Standards," are words and figures cut from photographs of typewritings from the Alger Hiss typewriter.

This chart is designed to illustrate the fundamental difference in the structure of the "r" and "6" in the documents dated from July 23, 1927 to June 29, 1929, in comparison with the Northwestern Life Insurance documents dated from July 8, 1929 to Feb. 14, 1930, as well as the Baltimore Letters and the Alger Hiss Standards. The dates in the left hand side of the chart refer to the individual Northwestern Life documents from which the cutouts were taken.

The cutouts in the comparison chart were prepared so that the "r's" and the "6's" in the respective words were placed directly below one another. Running the eye down the column of "r's" on the left side of the chart, beginning with the word "from," it can clearly be seen that the first six examples are of a different design than the last six examples on the chart, beginning with the word "Barger's" and ending with "very." In the documents dated July 23, 1927 to June 29, 1929, the "r" has a shorter "pump handle" and more of a downward ending stroke.

In contrast to this short "r", the Northwestern Life documents dated July 8, 1929 to Feb. 14, 1930 show a longer, slightly curved horizontal stroke which finishes only slightly downward. This same type of "r" is likewise seen in the Baltimore Letters as well as the Alger Hiss Standards shown at the far right of the chart.

A comparison of the figure "6" in the Northwestern Life Documents dated June 29, 1929 and the two Northwestern Documents dated July 8, 1929 and Aug. 21, 1929 shows a fundamentally different "6" in the former instance, which is almost circular in its lower formation in contrast to the horizontal ovals in the "6's" of the two later dated documents. In the right side of the comparison chart, the figure "6" in the Baltimore Letters and the Alger Hiss Standards agree with the July 8, 1929 and Aug. 21, 1929 Northwestern Life Documents in respect to the oval shaped "6" and they do not agree with the June 29, 1929 specimen. These fundamentally divergent characters definitely point to the use of two different models of Woodstock typewriters in the execution of the various documents.

Respectfully submitted,

Donald Doud
Donald Doud, Document Examiner

DD:gss
cc:Mr. Raymond Schindler

(Comparison Chart omitted in printing.)

Exhibit II-F

EXHIBIT II-G

Letterhead of

Tyrrell & Doud
312 E. Wisconsin Ave.
Milwaukee 2, Wisconsin

January 14, 1952

Mr. Richard Lane
Beer, Richards, Lane & Haller
70 Pine Street
New York 5, N. Y.

Dear Mr. Lane:

In your letter of January 9, 1952 you ask me to submit an affidavit on two unrelated points with which you hope to establish the theory that typewriter 230,099 was a fraudulently made up machine in support of the Government's case against Alger Hiss. I have worked conscienciously and diligently on this matter but no evidence I have gathered to date has given me any reason to believe that theory, and I cannot subscribe to a statement tending to imply that evidence I have gathered supports that conclusion.

To subscribe to the theory that typewriter 230,099 was a manufactured machine, one would have to assume that some individual had specimen letters written on the machine that Alger Hiss used and possessed the ability, knowledge and skill to discover all of the typeface defects apparent in these documents and then in some manner proceed to have these defects incorporated in typewriter 230,099. To me this is an almost impossible task. I don't think the expert in Boston could do it, nor could anyone else.

In regard to the specific points mentioned in your letter may I present the following facts:

You ask for an affidavit that the Northwestern letters of July 8, 1929 and later were probably typed on the same machine as was used for the standard Hiss specimens. Any statement I might make in this direction would, of necessity, be so modified as to be worthless to you.

As you may remember, the July 8, 1929 and the August 21, 1929 Fansler-Martin letters were photostatic copies, the originals having been destroyed in Philadelphia according to Mr. Swanstorm's secretary. To make matters worse these photostats were not the original white on black photostats, but were photostatic copies of photostats. In other words they were twice removed from the originals. Therefore, any judgement based upon such poor reproductions must be a qualified one.

The examination of these blurred photostats showed what appeared to be indications of two or three incipient typeface defects that could later have been enlarged into the pronounced defects seen in the Hiss standards and the Baltimore letters. (There were of course many additional defects of an outstanding nature that appeared in the Hiss standards and Baltimore letters.) However, the typewriter used for these early specimens was apparently in almost perfect condition and these irregularities can only be regarded in the nature of clues as to

the possible inception of the more serious defects. Certainly I nor anyone else could testify positively that the same typewriter was used, and the negative statement in my report, "I can find no evidence to show that these early Northwestern Life specimens *could not* have been written on the same typewriter used for the Baltimore letters and the Standard Hiss specimens" would not bear any weight. Indications are not evidence and I would not feel justified in putting into an affidavit anything, no matter how modified, that could not later be substantiated in court if it were found necessary to do so. It seems to me that the Fansler-Martin secretary "HLM" would be the logical one to approach as to the history of this typewriter.

In regard to the letter from Mr. Schmitt, I do not feel that any affidavit is required on that point. The fact that such a letter was received (a copy of which you have) is evidence enough that a request was made to examine the Woodstock records and that request was refused.

On page two of your letter you state that I am in error in my statement in regard to the period of manufacture of typewriter 230,099. My statement was to the effect that typewriter 230,099 (it is inconsequential, in regard to this point, whether or not it was the Hiss machine) showed the same TYPEFACE STYLE AND PATTERN as the standard Hiss specimens and the Baltimore letters. Therefore it must have been manufactured during the same period of time as those two specimens, or 1926, 1927, 1928 or possibly early 1929, which would show Mr. Schmitt to be wrong in his statement about "approximately July or August 1929". The only alternate assumption would be that someone took typeface "slugs" from another Woodstock of 1926 to 1929 vintage and soldered them on the typebars of machine 230,099 which Schmitt says was manufactured approximately in July or August 1929 and therefore in the new manufacturing period. Only an expert on typewriter construction could determine whether resoldering or other changes had been effected in the typewriter. The second point in regard to "The change of action in Woodstock typewriters around March of 1929" was not mentioned in your last letter.

I can see no point to be served in your coming to Milwaukee. I have carefully considered all aspects of this problem and the decisions, before expressed, were made only after due thought and consideration.

Yours very truly,

DONALD DOUD
Donald Doud, Document Examiner

DD:gs
CC Mr. Raymond Schindler

Exhibit II-G

EXHIBIT III-A

Articles in August 6 and 13, 1950 issues of

American Weekly
(Sunday magazine section of the Hearst newspapers)

entitled "How the FBI Trapped Hiss"

(Omitted in Printing.)

EXHIBIT III-B

State of Maryland }
City of Baltimore } ss.:

William Reed Fowler, being duly sworn, deposes and says:

My name is William Reed Fowler. I reside at Lutherville, R.F.D. Maryland.

In 1934 I married Louise Tracy, a niece of Miss Adelino Hasson, who was the housekeeper or custodian of 903 St. Paul St., Baltimore, Maryland, on behalf of the W.C.T.U., which owned and operated the house. From sometime in 1932 until the date of my marriage in August 1934 I used to visit Louise four or five times a week at 903 St. Paul St., where she lived with her aunt. After my marriage my wife and I continued to have dinner with Miss Hasson three to five times a week down until some time in 1938 at 903 St. Paul St. Miss Hasson left 903 St. Paul St. in 1938.

At the time I was familiar with 903 St. Paul St. the third floor was rented out as an apartment. Miss Hasson had a sitting room, two bedrooms and a bath on the second floor, and in addition there was a bedroom and bath that were used for putting up W.C.T.U. out-of-town visitors. The ground floor was used for the regular purposes of the WCTU, and was composed of a large living room, library, WCTU office and Miss Hasson's kitchen. There was only one bell at the front door. The front door was usually unlocked during the day, but it was locked at night. When the bell would ring, Miss Hasson would go out to the landing on the second floor and press a button to unlock the front door. She would look very carefully over whoever came in before letting them come upstairs. Although I am not quite sure I don't think that even the tenants on the third floor had keys with which they could let themselves in.

When I first started going to 903 St. Paul St. in 1932 a Mrs. Warner was living in the third floor apartment, first with her husband and, after her separation, by herself. She moved out in about the middle of 1934, and I think there was a period of a few months when nobody occupied the third floor apartment. I think the next tenants moved in some time around the first of the year—January or February 1935. They were a family of three—husband, wife and small girl of toddling age.

This family did not stay very long; my recollection is that they moved out in June or July 1935. After they moved, the apartment was empty again for a few months, and then an elderly woman and her daughter, a redheaded girl, moved in. I do not remember how long these people lived there.

My wife's aunt was very careful to know just what went on in the house at all times, and would discuss these things at meals, and that is one reason why I remember the house and the people who lived there as vividly as I do.

So far as the couple and the little girl go, I do not remember what their names were. I remember my wife's aunt telling me about them when they moved in, and she probably told me their names, but I don't remember names very well. At any rate, the names Chambers and Cantwell have never registered with me as being the names of those people.

I think I only saw the woman and the little girl once. However, I met the man quite shortly after he moved in. I remember that he came in to the big living room downstairs one time and my wife's aunt introduced me to him. I got a good look at him then, and after that I used to meet him pretty frequently on the steps when either he or I were going in or coming out. I got to know him pretty well in this casual kind of way. I remember that Miss Hasson had a nephew by marriage living there at that time, named Fred Beatty. He had come from the West Coast to live with her. He used to go up and play cards with the man and his wife. Sometimes he would go out and bring them in some beer; I remember this particularly because of the fact that he had to be pretty careful not to let Miss Hasson see him doing it.

Even though I am not very good at names I have an excellent memory for faces. I have seen pictures of Chambers, and I have also seen him in person recently—during the year 1951—and neither the Chambers whom I recently saw, nor the pictures of him that I have seen, have any resemblance whatsoever to the man who was living on the third floor at 903 St. Paul St. in 1935.

I am absolutely positive that Chambers and his family did not live at 903 St. Paul St. at any time between 1932 and 1938.

I am also absolutely positive that no colored maid, or any maid, for that matter, was employed there during that period by any of the people who were tenants during that time, or by Miss Hasson. Miss Hasson did have a colored man who did odd jobs around the house, as well as at another house which she owned and had rented out, but she didn't have any colored maid. Entirely apart from my own observation I am sure that she would have talked about a maid if there had been one there. As a matter of fact, I remember her mentioning that she had quite a lot of trouble even getting the rent out of the couple with the child.

I have asked my wife whether she remembers anything about these things. She tells me that she doesn't; that her aunt's habit of gossip used to get on her nerves so much that she made a habit of not listening to her; and anyhow that details of this kind don't ordinarily interest her or stick in her mind.

Miss Hasson died about five years ago.

/s/ William Reed Fowler
William Reed Fowler

Exhibit III-B

I hereby certify that on this 19th day of December, 1951, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore City, personally appeared William Reed Fowler, the above named affiant, and swore that the matters stated by him in the foregoing affidavit are true.

As witness my hand and Notarial Seal.

/s/ Margaret A. Hill
Margaret A. Hill, Notary Public

(Seal)

EXHIBIT III-C

State of New York }
County of New York } ss.:

Louis J. Leisman, being first duly sworn, deposes and says:

I lived and worked at 1619 Eutaw Place, Baltimore, Maryland, as custodian and rent collector, from September, 1935, to December, 1936. I have been shown a picture of Whittaker Chambers and remember him as a man who lived at 1617 Eutaw Place, which is the apartment house next door to 1619 Eutaw Place. I did not know his name at the time but I do know that one of the apartments at 1617 Eutaw Place was occupied by someone called Cantwell. I often observed Chambers in and around No. 1617, and frequently saw him in a tavern on McMechen Street, not far from 1617 Eutaw Place.

I know from my own observation that Chambers, or Cantwell, never employed a colored maid. If Chambers, or Cantwell, had employed a white maid, I might possibly have mistaken her for a tenant, but no colored maid could possibly have escaped my observation. In the winter time I was regularly in the basement in the morning and in the evening where I lived, in which there was a basement window that reached a little above the street level from which I could see the steps of 1617 and 1619 Eutaw Place. I stood there each day to watch for tenants in my house in order to catch them to collect rents due or to tell them to get out if they had proved undesirable. In warm weather I would either sit on the front steps outside my house or on a chair set against the railing, not more than three feet from the front steps of 1617.

It would have been almost impossible for a colored maid to have used the rear entrance of 1617 because the rear of the basement was taken up by the furnace room and there was no exit from the furnace room to the upper floors of the house except through the front basement apartment which was rented to a white tenant. The janitor of 1617 had to use the front entrance to get into the house proper and a white tenant in Baltimore would never have given a colored maid permission to come through the basement apartment. I can further say that it would be very unlikely that she could have escaped my observation by using the rear because it was necessary for me to take out the ashes and trash at 1619 through the rear exit at various times during the day, and certainly I would have seen a colored maid at least once in the time Edith Murray is supposed to have worked there.

I further say that there is no possibility of my being mistaken in my recollection in this matter, since the buildings in the neighborhood, including 1617 Eutaw Place, were generally occupied by very low type white people, paying rents of not more than $8.00 a week at that time, and keeping the police busy at all times checking up on prostitution, illegal sale of whiskey, and other immoral activities. It would have been so unusual for anyone to have a maid in that house that everybody in the neighborhood would have known about it and spoken about it, and if I had seen a colored girl going in or out of any house in the 1600 block of Eutaw Place it would have been so unusual that I would have investigated and found out for myself what new was going on in the block.

I am willing to testify under oath concerning the above facts and observations.

/s/ Louis J. Leisman

Subscribed and sworn to before me
this 8th day of February, 1951.

Margaret L. Burton

Margaret L. Burton
Notary Public for the State of New York
Qualified in New York County
No. 31-0515250
Certs. Filed with Co. Clks., Kings and
Rockland and with City Reg's. N. Y. and Kings
Commission Expires March 30, 1951

(Notarial Seal)

EXHIBIT IV-A

State of New York
City of New York
County of New York

Martin Gumpert, being duly sworn, deposes and says:

I am a physician duly licensed to practice in the State of New York, and I am the author of several books published in the United States and elsewhere.

I am the author of a book called "Henri Dunant—The Story of the Red Cross", which was published in the fall of 1938.

I wrote the book in German and completed it in December, 1937.

The Oxford University Press, which was managed in 1937 and 1938 by Paul Willert, bought my book before I completed it.

I sent the first three chapters to Mr. Willert several months before I finished the book and I sent him two or three chapters at a time until the book was completed late in December, 1937.

The translator who was engaged by the Oxford University Press was Mrs. Rita Reil, who resided at the Bedford Hotel, 118 East 40 Street, New York City, during the period when she was working on translating my book.

I too resided at the Hotel Bedford and saw Mrs. Reil frequently in connection with the progress of the translation.

I do not remember exactly how long Mrs. Reil worked on the translation of my book, but I do know that Mrs. Reil was engaged as a translator some time before I completed the writing of my book in the end of December, 1937, and that when Mr. Willert saw the translation of the first few chapters he insisted that Mrs. Reil do over the translation.

I saw Mr. Willert frequently, not only in a business way, but socially also as I was very friendly with both Mr. Willert and his wife. Mr. Willert discussed with me his dissatisfaction with the translation produced by Mrs. Reil, his willingness to let her try again to translate the first few chapters, and his intention to obtain a new translator promptly if Mrs. Reil was unable to re-translate the first few chapters satisfactorily. Mr. Willert told me that time was important because certain publication dates were better than others.

The re-translation by Mrs. Reil of the first few chapters proved also to be unsatisfactory and within a very short time afterwards Mr. Whittaker Chambers was engaged to do the translating of my book.

I do not remember how long Mrs. Reil worked on the translation, but it could not have been very long because Mr. Willert told me as soon as he received the first few chapters that he was not very happy about them, and shortly thereafter Mrs. Reil was asked to re-translate them.

I do remember that the new translator was engaged within two or three weeks, at the most, after Mrs. Reil's second translation was declared inadequate.

As soon as the new translator, Mr. Chambers, was engaged I asked to meet him as I was anxious to see for myself if he was able, and I wanted, also, to give him some personal ideas on the translation.

I was told by Mr. Willert that I would be unable to meet my new translator because he was in hiding from the Russian secret service, known as the G.P.U. and that because he was in hiding he constantly changed his address, and, also, that because he changed his address constantly the Oxford University Press was unable to contact Mr. Chambers, but had to wait for him to contact the Oxford University Press.

I asked from time to time, during the course of the translation to be permitted to talk to the translator but I was told each time that I could not see him for the reason I have just given.

I finally met Mr. Chambers in late September or early October, 1938 at a cocktail party given in honor of the publication of the book.

/s/ Martin Gumpert

Sworn to before me this
3rd day of January, 1952.

Lillian U. Genatt

Lillian U. Genatt
Notary Public in the State of New York
Qualified in Kings County
No. 24-1401175
Cert. Filed with New York County
Clerks and Register Office
Commission Expires March 30, 1953

Exhibit IV-A

EXHIBIT IV-B-1

16th December, 1937.

G. F. Cumberlege, Esq.,
The Oxford University Press,
Amen House,
Warwick Square,
E.C. 4

Dear Mr. Cumberlege,

Dr. Martin Gumpert's Henri Dunant: The Founder of the Red Cross

As you may know, Paul Willert has bought the American rights in this and has suggested that we should give you the first refusal of the British Empire except Canada volume rights. Willert makes one stipulation regarding English publication and that is that the English publisher should pay one-half of the translation cost.

I am enclosing herewith the first three chapters in German. Would you kindly get some early word to me about them.

Yours sincerely,

LP/YM
Enc. Typescript

EXHIBIT IV-B-2

30th December, 1937.

G. F. Cumberlege, Esq.,
The Oxford University Press,
Amen House,
Warwick Square,
E.C. 4.

Dear Mr. Cumberlege,

On December 16th we sent you the first three chapters in German of Henri Dunant by Dr. Martin Gumpert and now have pleasure in enclosing the first fifty-eight pages in English. Will you please let us have some word from you about this as soon as possible.

Yours very truly,

Secretary to Mr. Pollinger

MF/YM
Enc. Typescript

EXHIBIT IV-B-3

3rd January, 1938

G. F. Cumberlege, Esq.,
Oxford University Press,
Amen House,
Warwick Square,
E.C. 4.

HENRI DUNANT

Dear Mr. Cumberlege,

Further to my Secretary's letter of December 30th sending you the first 58 pages of this work in English. I now hear from Paul Willert that the fee for the cost of the translation is $400 and that he would expect you to pay half. The delivery of the complete German manuscript was due January 1st and the translation is being made as rapidly as possible.

Yours sincerely,

LP/MF

EXHIBIT IV-B-4

7th January, 1938.

T. Schuller, Esq.,
The Oxford University Press,
Amen House,
Warwick Square,
E.C. 4.

Dear Mr. Schuller,

HENRI DUNANT: THE FOUNDER OF THE RED CROSS.

A note has just come in from Ann Watkins which reads:

> "Paul Willert tells me the first pages of the translation are to be done over. You had best destroy the 58 pages which went to you—do not show them. Hamish Hamilton, who is here now, is very interested in the book which Willert talked to him about.
>
> I will get copy of the new translation to you at the earliest possible moment."

Will you kindly return the pages that I sent you the other day and accept my apologies for any inconvenience you may have been put to.

Yours sincerely,

LP/YM

Exhibit IV-B-3
Exhibit IV-B-4

EXHIBIT IV-B-5

Letterhead of

THE OXFORD UNIVERSITY PRESS
Amen House
Warwick Square, London E.C. 4

TS/EMH.

January 11th, 1938.

Laurence Pollinger, Esq.,
Messrs., Pearn, Pollinger and Higham, Ltd.,
6, Norfolk Street,
Strand,
London W.C. 2

Dear Mr. Pollinger,

re: *Dunant: The Founder of the Red Cross.*

Thank you for both your letters of January 7th. We have now read the sample chapters you sent us and think they are rather interesting. Of course we cannot form any opinion yet as to what the whole book will be like but as soon as you have got the whole manuscript we would like to see it so that we can have it read quickly and let you know if we think we can do the book or not.

I am returning the first 58 pages of the English manuscript which you kindly sent us and which you now want to have back. I am not doing anything in this matter until I hear from you again.

Yours sincerely,

THEODORE SCHULLER
for the Oxford University Press.

EXHIBIT IV-B-6

25th January, 1938.

T. Schuller Esq.,
Oxford University Press,
Amen House, Warwick Square,
E.C. 4.

Dear Mr. Schuller,

HENRI DUNANT

The completion of the manuscript in German has just reached me and is enclosed. The translation will be along soon, I hope.

Yours sincerely,

LP/MF
ENC

Exhibit IV-B-5
Exhibit IV-B-6

EXHIBIT IV-B-7

Letterhead of

THE OXFORD UNIVERSITY PRESS
Amen House
Warwick Square, London E.C. 4

TS/EMH.

January 27th, 1938.

L. Pollinger, Esq.,
Messrs., Pearn, Pollinger and Higham, Ltd.,
6, Norfolk Street,
London W.C. 2.

Dear Mr. Pollinger,

Dunant: The Red Cross.

Thank you for yours of January 25th and for sending us the German manuscript. We are now looking forward to receiving the English translation.

Yours sincerely,

THEODORE SCHULLER

EXHIBIT IV-B-8

Letterhead of

THE OXFORD UNIVERSITY PRESS
Amen House
Warwick Square, London E.C. 4

TS/RMS.

4 March 1938.

Mr Cumberlege.

Dunant: The Red Cross.

You wanted to ask Willert how this book stands. Pollinger told me yesterday that a new translation is being made as the first was not good enough. Perhaps Paul can tell us

(1) if he thinks that the book is suitable for us

(2) if he really would expect us to pay as much as 200 dollars for the translation (as Pollinger said in his letter of 3 January).

T. S.

EXHIBIT IV-B-9

OXFORD

(FILE COPY)

SENT TO

David Chambers, Esq.
2124 Mt. Royal Terrace
Baltimore, Maryland

David Chambers, Esq.
2124 Mt. Royal Terrace
Baltimore, Maryland

S 27219

√	*Quan.*	*Title*

MS GUMPERT: HENRI DUNANT

(Rubber Stamp)

RECEIVED
Mar 18 1938

.....

L Rachel

RUSH * MUST REACH BALTIMORE SATURDAY
EXPRESS

Charge..... Ordered by.....

EXHIBIT IV-B-10

March 23, 1938

T. Schuller, Esq.
Amen House, Warwick Square
London, E. C. 4
England

CONFIDENTIAL

Gumpert: Dunant—The Red Cross

This book is first class and I think it is pretty important. The book is suitable for you if you will try to get behind it and put it over as would Heinemann's or Gollancz. If you feel you can't do this, then I would rather, for the author's sake, let another publisher have it.

$200.00 for the translation is a very small fee indeed and the offer no longer holds good: it will now be about $350.00. I am sending you a set of galleys and you can form an estimate of it yourself.

PW:HS

EXHIBIT IV-B-11(a)

Letterhead of

Oxford University Press
114 Fifth Avenue
New York

April 12, 1938

Dear Mr. Chambers:

Here is, rather belatedly, my cheque to you for $250—part of my payment to you. The remaining half will be given to you on completion and approval of the manuscript, which should be delivered to us by the first of May.

How are you getting on with it? I should be very grateful if you would send me your chapters as you go along, as I wish to have them prepared immediately for the printer and can use them for publicity. Will you let me know by return?

Yours sincerely

Paul Willert

David Chambers, Esq.
2124 Mt. Royal Terrace
Baltimore, Maryland

EXHIBIT IV-B-11(b)

Envelope enclosing Exhibit IV-B-11(a)

Omitted in printing.

EXHIBIT IV-B-12

Letterhead of

Postal Telegraph—Cable Company
Office at 6 West 19 St.

April 18 1938

Univ. 4-3200
[Handwritten] Chelsea 3-3576
Mr. Schapiro

NA 113
M Oxford University
114 Fifth Ave

Your telegram of today addressed to David Chambers 2124 Mt Royal Terrace Baltimore Md has not been delivered for the reason that addressee moved present address unknown.

Postal Telegraph—Cable Company
Per PB

Exhibit IV-B-11(a)
Exhibit IV-B-11(b)
Exhibit IV-B-12

EXHIBIT IV-B-13

May 1, 1938.

Mr. Paul Willert,
The Oxford University Press,
114 Fifth Ave.,
New York City.

Dear Mr. Willert,

I am enclosing the first 100 pages of Dunant and the Red Cross. If I may have two weeks more in which to turn in the balance, it will relieve the pressure I am now working under, and certainly improve the translation. Meanwhile I shall send another batch soon.

Mail to me should be addressed to *David Chambers, General Delivery, St. Augustine, Florida.* Quite unavoidable personal reasons have brought me here at a time when I should much rather have been nearer New York.

As you probably know, there are a number of errors in the German manuscript. I have caught up as many as possible—proper names, especially. For example, I have identified Mussé as de Musset, San Beuve as Sainte-Beuve, Henri Toepffer as Rodolph Toepffer etc. But who is Golier? I cannot trace him so I have left him as he stands.

The book would gain substantially, it seems to me, if the background of facts was fuller, the foreground of interpretation less insistent: even the facts that are given will bear pointing up.

Sincerely yours,

David Chambers
David Chambers

EXHIBIT IV-B-14

Receiving Report

No. 8077

OXFORD UNIVERSITY PRESS
NEW YORK, INC.

114 Fifth Avenue — New York, 5/4/38

Received from—David Chambers
2124 Mt. Royal Ter
Balto. MD.

How Delivered—SD — Delivery Charges Paid $.....

Quantity	*Description*	*Remarks*
1	Package ~~Dr~~ Translation Gumpert: Dunant	

Received by—JB — P. O. No.....
Unpacked by—Mr Willert Sec — Dept.....
Disposition—H. Sherwood — .....

Exhibit IV-B-13
Exhibit IV-B-14

EXHIBIT IV-B-15

May 4, 1938

Dear Mr. Chambers:

I was immensely relieved to receive the first hundred pages of Dunant which I have read and think are excellent. Perhaps you might prune, as you go on, some of the unnecessary adjectives, but that is a minor fault. Germans always appear to use twice as many adjectives as are necessary in English.

Meanwhile, let me protest strongly at the way in which you disappeared leaving no address of any kind. I have no doubt that you had excellent reasons for doing this, but you must realize it was an impossible basis for us to work on. I have sent you a cheque and telegrams and have spent endless time trying to locate you through your friends here. I have an author and an agent telephoning me every day for news of the translation and the least you could have done was to have sent me some information from time to time as to how the work was progressing. Will you please either remain at your present address or let me know what your movements are until such time as the translation is finished?

I am expecting the rest of the book by May 14th, which is exactly two weeks from the date on which you wrote. I must stress the need for receiving the complete translation then, as we are in a desperate rush to put the book into the printer's hands. I hope you will come up to New York then, as I have various things I would like to take up with you.

I shall be grateful for an answer to this letter by return promising me delivery on the fourteenth and also re-assuring me as to where you are going to be.

Yours sincerely

David Chambers, Esq.
General Delivery
St. Augustine, Florida

EXHIBIT IV-B-16

Copy of Handwritten Letter.

St. Augustine, Florida
May 3, 1938

(Rubber Stamp)
Received
May 9 1938
O. U. P., N. Y.

Mr. Paul Willert,
114 Fifth Ave.,
New York City.

Dear Mr. Willert,

I am writing this immediately on receipt of your letter. You will certainly receive your translation on time—some of it before. I am distressed that I should have caused you so much trouble. I have not been at Mt. Royal Terrace for more than a month. I shall write more fully later.

Sincerely yours,

David Chambers

Exhibit IV-B-15
Exhibit IV-B-16

EXHIBIT IV-B-17

(Rubber Stamp)

Received
May 9 1938
O. U. P., N. Y.

May 4, 1938.

Mr. Paul Willert,
115 Fifth Ave.,
New York City.

Dear Mr. Willert,

This is to supplement the scrawl I sent you from the post-office. Most important, you will receive the translation by the fourteenth. Shortly after, I shall be in New York and will call to see you.

It is difficult to express my sense of your consideration after the bad time I've given you. But I am deeply grateful.

Of course, I never received the check or any communication. If it does not involve too much red tape, you might stop payment on that check, and I shall appreciate it if you send me another here: I need it. Otherwise, I'll pick up the first check some time when I am in Baltimore.

My St. Augustine address will remain the same until after I am finished with the translation.

I am usually glad of an opportunity to prune out adjectives. But there is something else—are you sure of the data scattered through this book? The Lord Exmouth commission, for one thing? Or the treatment of Napoleon III and the Italian question? I seem to notice all kinds of small inaccuracies. But I suppose that is the author's business.

Sincerely yours,

David Chambers
David Chambers

EXHIBIT IV-B-18

May 4, 1938

Dear Martin,

The first hundred pages of the translation appeared this morning and the rest is promised by May 14th. I have read it through and have pencilled various comments in the margin. You can rub them out when you have read them. The translation I think is excellent. The changes or queries which I have made are much more due to the fact that he has sometimes been too literal and you too ambiguous in your own text. I think we must do a certain amount of adjective pruning especially in your more philosophical and descriptive passages. Two or three adjectives is all right in German, but gives an extremely old-fashioned and pretentious feeling in English.

I have queried one or two statements which seem to me to require either qualification or enlargement. I am prepared to argue definitely with you on the subject of Locke and Rousseau and you must be careful that whenever you take a side on an American issue you state fully your reasons. This is with reference to the Civil War in particular, but you will see when you read it the kind of thing that I mean.

I am still a little unhappy about the beginning. I do think in this day when readers are more than ever accustomed to a visual image of their characters you must give some physical description, however vague or imaginative, of Dunant in the first chapter. As it is, pieces of descriptive information slip in as by accident: i.e. you say that the sickly Dunant visited prisons and later at Solferino that he was dressed in white. This gives a curiously incomplete feeling as if the reader had forgotten your description of the man and one feels that one should turn back to the description which does not, in fact, exist. You might think over this criticism.

Every now and again in your condensation of history I think you assume knowledge which the ordinary reader does not have. A few sentences of explanation would give him the necessary clue. The translator's note on the resolution of 48 from Le Matine seems to me an excellent point.

When you have had time to consider these criticisms, can we meet and discuss them and type and format of the book, as I am going to send this to the printer as it comes in.

I am greatly relieved to get the translation and also to find that it is really as good as we had hoped. I think he gets better as he goes on. The description of Solferino and the historical parts are really very well done.

I am sending you a copy and one copy goes to Ann Watkins for England. I am retaining another copy for our own use.

Yours ever

Dr. Martin Gumpert
Hotel Bedford
118 East 40th Street
New York, N. Y.

EXHIBIT IV-B-19

(Western Union Telegram)

1938 May 17 AM 9 46

Received at—69 Fifth Avenue, N. Y.
NBM20 5=DA DaytonaBeach Flo 7 919A
Paul Willert=

Oxford University Press 114 Fifth Ave=

Translation of Dunant on way=

David Chambers

F—Gumpert

EXHIBIT IV-B-20

Receiving Report

No. 8427

OXFORD UNIVERSITY PRESS
NEW YORK, INC.

114 Fifth Avenue New York, 5/18 1938

Received from—David Chambers
2124 Mt. Royal
Baltimore, Maryland

How Delivered Delivery Charges Paid $.....

Quantity	*Description*	*Remarks*
1 pkg.	1 pkg received special delivery Air Mail Part Translation Gumpert: Dunant H. Sherwood	

Received by—R. Curry P. O. No. .....
Unpacked by—Mr Willert Sectry. Dept.—Administration
Disposition ....

EXHIBIT IV-B-21

RECEIVING REPORT

No. 8438

OXFORD UNIVERSITY PRESS
NEW YORK, INC.

114 FIFTH AVENUE — NEW YORK, 5/20/38

Received from—D. Chambers
2124 Mt Royal
Balto Md.

How Delivered — Delivery Charges Paid $.....

Quantity	*Description*	*Remarks*
1	Package Trans Gumpert: Dunant	

Received by—JB — P. O. No. .....
Unpacked by—Mr Willert Sec. — Dept. .....
Disposition—H. Sherwood — .....

EXHIBIT IV-B-22

(Western Union Telegram)

1938 May 22 PM 10 30

Received at
JNA 156 10 NL=DaytonaBeach Flo 22
Paul Willert, Oxford University Press=
114 Fifth Ave NYK=

Complete translation including extra chapters you sent sent air mail=

DAVID CHAMBERS.

Sent Sent.

EXHIBIT IV-B-23

(Western Union Telegram)

21 June 1938

Mr. D. Chambers
c/o Nathan Levine
152 West 42nd St.
N. Y. C.

Remaining galleys at this office await your reading. On what day of this week will you call. Please bring corrected proofs.

PAUL WILLERT

F—Gumpert

EXHIBIT IV-B-24

(Western Union Telegram)

1938 Jun 22 PM 3 14

Received at 69 Fifth Ave., New York, N. Y.
NBM 211 5=RM Baltimore Md 22 255P
Paul Willert, Oxford University Press=
114 Fifth Ave=

Galley slave arriving Thursday morning=

DAVID CHAMBERS.

Gumpert

13 269NY2 BR 4988 GBC
07/93 04-344-00